



Senate
Research
Center

Highlights

of the 81st

TEXAS LEGISLATURE

A Summary of Legislation



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Workforce Development

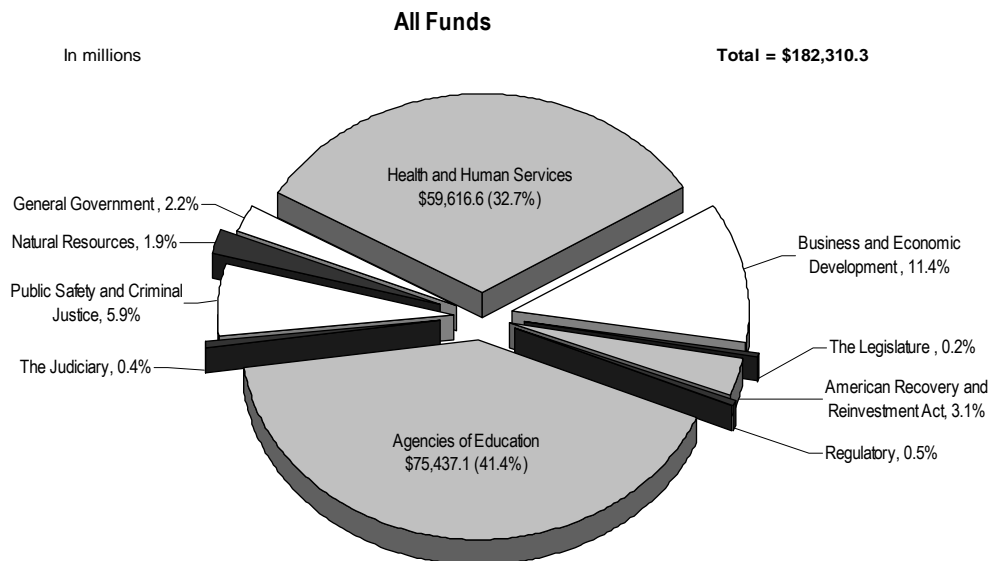
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General Appropriations Act—S.B. 1
by Senator Ogden—House Sponsor: Representative Pitts

Overview

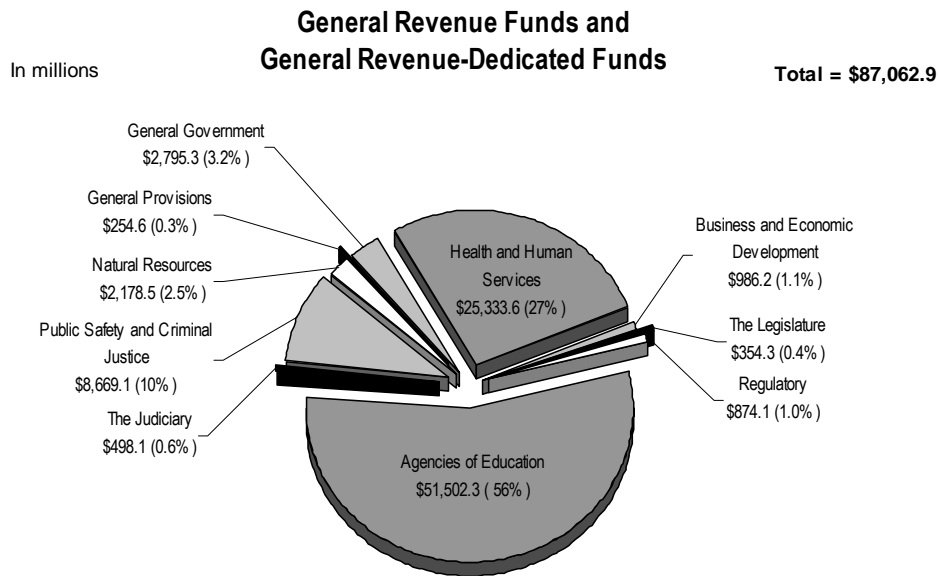
The Conference Committee on Senate Bill 1 (committee), the General Appropriations Act, recommended \$182.3 billion in All Funds for state government operations for the 2010-2011 state fiscal biennium beginning September 1, 2009. This recommendation represents a \$12.6 billion increase, or 7.4 percent, over the 2008-2009 biennium. The committee recommended \$87.1 billion in General Revenue (GR) and General Revenue-Dedicated funds for the 2010-2011 biennium. This recommendation represents a decrease of \$1.6 billion, or 1.8 percent, from the 2008-2009 biennium.

The committee recommended \$4.1 billion in All Funds and \$2.8 billion in GR and GR-Dedicated funds for Article I – General Government; \$59.6 billion in All Funds and \$25.3 billion in GR and GR-Dedicated funds for Article II – Health and Human Services; and \$75.4 billion in All Funds and \$51.5 billion in GR and GR-Dedicated funds for Article III – Agencies of Education. This includes \$52.8 billion in All Funds for public education and \$22.6 billion in All Funds for higher education. The committee recommended \$669.2 million in All Funds and \$498.1 million in GR and GR-Dedicated funds for Article IV – The Judiciary; \$10.8 billion in All Funds and \$8.7 billion in GR and GR-Dedicated funds for Article V – Public Safety and Criminal Justice; \$3.4 billion in All Funds and \$2.2 billion in GR and GR-Dedicated funds for Article VI – Natural Resources; \$20.7 billion in All Funds and \$986.2 million in GR and GR-Dedicated funds for Article VII – Business and Economic Development; \$892.1 million in All Funds and \$874.1 million in GR and GR-Dedicated funds for Article VIII – Regulatory Agencies; \$666.6 million in All Funds and \$254.6 million in GR and GR-Dedicated funds for Article IX – General Provisions; \$354.9 million in All Funds and \$354.3 million in GR and GR-Dedicated funds for Article X –The Legislature; and \$5.7 billion in All Funds for Article XII – The American Recovery and Reinvestment Act.



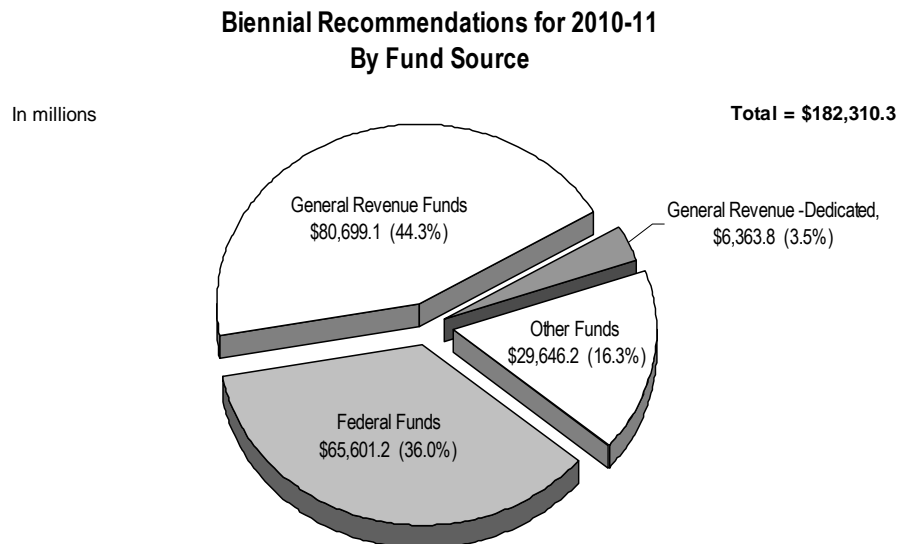
Note: Excludes interagency contracts.

Source: Legislative Budget Board



Note: Chart does not account for the \$6,383.3 million reduction in General Revenue Funds in Article XII. Percentage values do not sum to 100 percent.

Source: Legislative Budget Board



Notes: Excludes interagency contracts.

Biennial change and percentage change are calculated on actual amounts before rounding. Therefore, table and figure amounts may not add because of rounding.

Source: Legislative Budget Board

ALL FUNDS

(in millions)				
Function	Estimated/ Budgeted 2008-2009*	Recommended 2010-2011	Biennial Change	Percentage Change
Article I – General Government	\$3,845.1	\$4,077.3	\$232.2	6.0%
Article II – Health and Human Services	\$54,542.0	\$59,616.6	\$5,074.6	9.3%
Article III – Agencies of Education	\$74,151.9	\$75,437.1	\$1,285.2	1.7%
Public Education**	\$52,977.5	\$52,796.3	(\$181.2)	(0.3%)
Higher Education	\$21,174.3	\$22,640.7	\$1,466.4	6.9%
Article IV – The Judiciary	\$324.2	\$669.2	\$45.1	7.2%
Article V – Public Safety and Criminal Justice	\$10,625.4	\$10,759.6	\$134.2	1.3%
Article VI – Natural Resources	\$3,344.0	\$3,447.9	\$103.9	3.1%
Article VII – Business and Economic Development	\$21,510.3	\$20,713.6	(\$796.7)	(3.7%)
Article VIII – Regulatory	\$767.3	\$892.1	\$124.8	16.3%
Article IX – General Provisions	\$0.0	\$666.6	\$666.6	NA
Article X – The Legislature	\$344.0	\$354.9	\$10.9	3.2%
Article XII – American Recovery and Reinvestment Act	\$0.0	\$5,675.5	\$5,675.5	NA
Total, All Functions	\$169,754.0	\$182,310.3	\$12,556.3	7.4%

*Includes certain anticipated supplemental spending needs.
 ** Estimated/budgeted amounts in the 2008-09 biennium include \$1,487.6 million to cover the cost of a 25th month of Foundation School Program payments, reversing the deferral of the August payment into the following fiscal year. This is a one-time cost, so no appropriation for this purpose is necessary in the 2010-11 biennium.
 Notes: Excludes interagency contracts.
 Biennial change and percentage change are calculated on actual amounts before rounding. Therefore, table and figure amounts may not add because of rounding.
 Source: Legislative Budget Board

GENERAL REVENUE AND GENERAL REVENUE-DEDICATED FUNDS

(in millions)				
Function	Estimated/ Budgeted 2008-2009*	Recommended 2010-2011	Biennial Change	Percentage Change
Article I – General Government	\$715.9	\$653.5	(\$62.3)	(8.7%)
Article II – Health and Human Services	\$965.8	\$990.0	\$24.3	2.5%
Article III – Agencies of Education	\$2,346.0	\$2,360.2	\$14.2	0.6%
Public Education	\$96.7	\$0.2	(\$96.5)	(99.7%)
Higher Education	\$2,249.3	\$2,359.9	\$110.6	4.9%
Article IV – The Judiciary	\$53.7	\$61.5	\$7.7	14.4%
Article V – Public Safety and Criminal Justice	\$24.7	\$80.3	\$55.6	225.4%
Article VI – Natural Resources	\$1,462.1	\$1,310.5	(\$151.6)	(10.4%)
Article VII – Business and Economic Development	\$423.8	\$400.4	(\$23.4)	(5.5%)
Article VIII – Regulatory	\$408.3	\$480.4	\$72.0	17.6%
Article IX – General Provisions	\$0.0	\$27.1	\$27.1	NA
Article X – The Legislature	\$0.0	\$0.0	\$0.0	NA
Article XII – American Recovery and Reinvestment Act	\$0.0	\$0.0	\$0.0	NA
Total, All Functions	\$6,400.2	\$6,363.8	(\$36.4)	(0.6%)

*Includes certain anticipated supplemental spending needs.
 Note: Biennial change and percentage change are calculated on actual amounts before rounding. Therefore, table and figure amounts may not add because of rounding.
 Source: Legislative Budget Board

FULL-TIME EQUIVALENT POSITIONS

(in millions)					
Function	Expended 2007	Estimated 2008	Budgeted 2009	Recommended 2010	Recommended 2011
Article I – General Government	9,278	9,158	9,849	10,077	10,088
Article II – Health and Human Services	47,831	50,051	54,330	55,927	56,052
Article III – Agencies of Education	81,585	85,426	88,533	85,632	85,659
Article IV – The Judiciary	1,320	1,347	1,393	1,395	1,411
Article V – Public Safety and Criminal Justice	51,537	50,969	53,428	53,276	53,217
Article VI – Natural Resources	8,091	8,265	8,622	8,796	8,820
Article VII – Business and Economic Development	18,186	17,608	18,287	18,236	18,234
Article VIII – Regulatory	3,160	3,303	37,762	3,959	3,960
Article IX – General Provisions				91	91
Grand Total	220,988	226,127	238,204	237,389	237,531

Note: Totals may not add because of rounding.

Source: Legislative Budget Board

Major Highlights

Health and Human Services

Appropriates \$44.8 billion in All Funds and \$18.7 billion in GR and GR-Dedicated funds for the Medicaid program. Increases appropriations by \$4.5 billion in All Funds and \$2.5 billion in GR and GR-Dedicated funds in order to maintain rates at fiscal year (FY) 2009 levels and address projected caseload growth, address a less favorable federal match, address cost growth, increase community attendant wages and healthcare provider rates, achieve cost-savings, expand and reshape the system of care for individuals with developmental disabilities, implement a Medicaid Buy-in program for children, and provide healthcare to legal permanent residents at an enhanced federal match rate.

Appropriates \$2 billion in All Funds and \$624 million in GR for the Children's Health Insurance Program. Increases appropriations by \$122 million in All Funds and \$74 million in GR primarily to address caseload growth.

Appropriates \$1.4 billion in All Funds and \$593.1 million in GR for the Integrated Eligibility and Enrollment Office. Increases appropriations by \$100 million in All Funds and \$50 million in GR to maintain August 2009 staffing levels and the state-authorized salary increase.

Appropriates \$886.4 million in All Funds and \$323.4 million in GR for Child Protective Services staff. An increase in appropriations of \$5.7 million in All Funds and a decrease of \$11.8 million in GR appropriations, together with an appropriation of \$48 million in stimulus-related Temporary Assistance for Needy Families federal funds maintains August 2009 staffing and salary levels and adds 219 full-time equivalent (FTE) positions.

Increases appropriations by \$47.2 million in All Funds to support increased Adoption Subsidy caseloads.

Adds \$83.6 million in GR to the \$82 million in GR appropriated by the 80th Legislature to expand community mental health services.

Appropriates \$1.7 billion in All Funds and \$518 in GR and GR-Dedicated funds for the Special Supplemental Nutrition Program for Women, Infants, and Children.

Increases appropriations by \$18.5 million in All Funds and \$4.7 million in GR to address Early Childhood Intervention Program caseloads.

Public Education

Appropriates \$37 billion in All Funds for the Foundation School Program. Provides \$1.9 billion in new funding, contingent upon the enactment of legislation regarding a formula-driven school finance system to improve equality, reduce recapture, and provide educator salary increases.

Appropriates \$812.8 million in GR for instructional materials, an increase of \$312.5 million over 2008-2009 expenditures.

Appropriates \$395.6 million in GR for the District Awards for Teacher Excellence incentive pay program. Eliminates funding for the Texas Educator Excellence Grants.

Increases appropriations by \$25 million, a 14 percent increase over 2008-2009 funding, for expansion of pre-kindergarten programs to serve an additional 17,000 students.

Higher Education

Appropriates \$22.6 billion in All Funds, including \$585.1 million in increased formula funding. Increases appropriations by \$336.7 in GR and GR-Dedicated funds for enrollment growth. Decreases appropriations by \$25.9 million in debt service reimbursement for Tuition Revenue Bonds due to delays in issuing certain bonds and the retirement of other bonds. Decreases special item funding by \$32.3 million due to the elimination of one-time expenditures such as hurricane relief and deferred maintenance.

Increases appropriations by \$33 million for the Texas Competitive Knowledge Fund.

Increases appropriations by \$117.5 million in GR for patient care at The University of Texas Medical Branch at Galveston, The University of Texas M.D. Anderson Cancer Center, and The University of Texas Health Science Center at Tyler.

Increases appropriations by \$210.9 million for student financial aid programs at the Texas Higher Education Coordinating Board.

Increases appropriations by \$37 million for the Texas Forest Service to assist volunteer fire departments.

Annualizes at \$40 million the Higher Education Performance Incentive Initiative. Transfers \$66.5 million from special items to the General Academic funding formula.

Public and Higher Education Benefits

Increases appropriations by \$190.2 million in All Funds to the Teacher Retirement System and \$9.1 million in All Funds to for the Optional Retirement Program to reflect assumed payroll growth. State retirement contributions for the Teacher Retirement System and Optional Retirement Program are 6.4 percent of payroll.

Increases appropriations by \$45.8 million in GR for public school retirees' health insurance.

Increases appropriations by \$61.9 million for premium rate increases in Higher Education Group Insurance.

Criminal Justice

Appropriates \$4.9 billion in All Funds for the incarceration and treatment of adult offenders. Increases appropriations by \$271.4 million in GR due to salary increases for correctional officers and laundry and food service managers; rising inmate healthcare costs; increased funding for reentry transitional coordinators; multi-year contract rate increases; increased funding for incentives provided by the 80th Legislature; state-approved salary increases; and increased costs for food, overtime, utilities, hazardous duty pay, and adjustments to the correctional officer career ladder in 2009.

Appropriates \$400 million in All Funds for residential services at the Texas Youth Commission. Decreases appropriations by \$42.9 million in GR due to institutional capacity reductions and corresponding reductions in staffing; a reduction in contracted capacity; and one-time appropriations made by the 80th Legislature for video electronic surveillance equipment and an electronic medical records system. Appropriates funding for salary increases for juvenile correctional officers and other institutional staff, continued operation of the Victory Field Correctional Academy and the West Texas Regional Facility in FY 2010, additional specialized treatment in FY 2011, regional community reentry and specialized aftercare programs, and an automated assessment and data-sharing system.

Appropriates \$87.1 million in All Funds for border security operations, including additional personnel at the Department of Public Safety of the State of Texas; additional funding to the Texas Parks and Wildlife Department, the Texas Department of Criminal Justice, and the Office of the Governor, for border security operations; funding for law enforcement overtime and operational costs; operations of the Joint Operations and Intelligence Centers and the Border Operations Center; construction of the Governor's Regional Center for Operations and Intelligence in Laredo; upgrades to Texas Task Force II in Dallas; and aviation support.

Natural Resources

Provides for an All Funds increase of \$143.9 million, \$108.1 million in GR and \$35.8 million in other funds, in debt service appropriations for General Obligation Water Bonds. Provides from this amount, \$89 million in GR for additional debt service related to \$890 million in bonds for State Participation, Economically Distressed Areas Program, and Water Infrastructure Fund No. 302 projects related to the State Water Plan.

Transportation

Appropriates \$17.1 billion in All Funds for transportation planning and design, acquisition of right-of-way, construction, and maintenance of the state's transportation system, representing a \$300 million decrease in All Funds, which includes increases of \$1.1 billion in State Highway Funds and \$2 billion in Proposition 12 (2007) General Obligation Bond Proceeds, offset by decreases of \$1.6 billion in Texas Mobility Funds and \$1 billion in State Highway Fund Revenue Bond Proceeds for Highway Improvements and Safety projects, and a decrease of \$200 million in GR from the 2008-2009 biennium.

Retirement Benefits

Increases by \$306.1 million in All Funds and \$187 million in GR and GR-Dedicated funds state contributions for group insurance benefits.

Appropriates \$332.7 million in All Funds, including \$313.1 million in GR-related funds, for one-time payments to retired state and public school annuitants, the 3.5 percent pay increase each fiscal year for certain adult and youth corrections state employees, and certain other state employees.

American Recovery and Reinvestment Act

Amounts available for state appropriation by virtue of the American Recovery and Reinvestment Act (ARRA) total an estimated \$12.1 billion in federal funds for the 2010-2011 biennium. Authorizes a portion of the federal funds made available in ARRA to be used to make GR available for other state obligations, an estimated \$6.4 billion, making the net increase to state agencies through S.B. 1 total \$5.7 billion for the biennium.

Full-Time Equivalent Positions

Provides for 237,389 FTEs in FY 2010 and 237,531 FTEs in FY 2011. For FY 2011, FTEs decrease from the 2009 budgeted level by 673.

Vetoed

Vetoed amounts included approximately \$386.1 million in all funding sources from S.B. 1, of which \$97.2 million was funding from GR. Vetoed by the governor were appropriations representing contingency riders or contingent appropriations for bills that either did not pass or were vetoed by the governor.

Transportation Bonds–H.B. 1 (1st Called Session)

by Representative Pitts et al. – Senate Sponsor: Senator Carona

In the November 2007 election, the people of Texas voted to allow the Texas Department of Transportation (TxDOT) to issue general obligation bonds for highway improvement projects. This legislation is the enabling legislation for those bonds. This bill:

Amends Chapter 222, Transportation Code, to authorize the Texas Transportation Commission (TTC) to issue general obligation bonds to fund highway improvement projects, to pay the costs of administering the projects and the cost or expense of the issuance of the bonds, and prohibit the aggregate principal amount of the bonds that are issued from exceeding \$5 billion.

Authorizes TTC to enter into credit agreements for the bonds to be secured by and payable from the same sources as the bonds. Sets forth the manner in which the bonds must be authorized, executed, and issued, and requires that the bonds mature not later than 30 years after their dates of issuance, subject to any refunding or renewal. Prohibits the proceeds from the issuance and sale of the bonds from being expended or used for the purposes authorized unless those proceeds have been appropriated by the legislature.

Amends Rider No. 60, Article VII, S.B. 1, 81st Legislature, Regular Session, 2009, to provide contingency appropriations for highway improvement projects and requires that the amounts from Proposition 12 General Obligation Bond proceeds for new construction contracts be used to make progress payments on a maximum of \$1,850,000,000 in new multi-year construction contract obligations for nontolled highway projects. Requires that \$1 billion be used to capitalize the Texas Transportation Revolving Fund or to capitalize the State Infrastructure Bank for the purpose of making loans to public entities provided that money in the State Infrastructure Bank may not be used for the purpose of converting a nontolled road or highway to a tolled road or highway.

Dynamic Fiscal Impact Statements for Certain Bills Affecting Taxes and Fees—H.B. 464

by Representative Paxton et al.—Senate Sponsor: Senator Nelson

The Legislative Budget Board (LBB) is required to prepare a fiscal note estimating the cost of a bill or resolution that would authorize the expenditure of state funds for a purpose other than one provided for in the General Appropriations Act. Section 314.003, Government Code, requires the fiscal note to be attached to the bill or resolution and remain with the bill throughout the legislative process, including its submission to the governor. This bill:

Requires the LBB to prepare a “dynamic fiscal impact statement” for each bill or joint resolution that raises or lowers the rate or amount of a tax or fee or proposes an amendment to the Texas Constitution that would raise or lower the rate of a tax or fee and for which the bill's or resolution's fiscal note indicated a positive or negative impact on revenue of at least \$100 million during a period of not more than five years.

Requires that each dynamic fiscal impact statement be based on “dynamic scoring principles” and be attached to the bill or resolution immediately following the fiscal note.

Abolition of the Texas Cultural Endowment Fund—H.B. 2242

by Representative Leibowitz et al.—Senate Sponsor: Senator Seliger

In 1993, the Texas Legislature established the Texas Cultural Endowment Fund (endowment fund) outside the treasury to provide a permanent and sustaining source of financial support for the Texas Commission on the Arts (TCA) and to eliminate the need for future appropriations of general revenue funds. The endowment fund has not reached its target of \$200 million, ending fiscal year FY 2008 with a balance of \$9.8 million. This bill:

Dissolves the endowment fund and transfers the endowment fund balance to TCA's operating fund.

Repeals Section 444.026 (Texas Cultural Endowment Fund), Government Code, and Section 444.028 (Endowment Fund Investment and Management), Government Code.

Eliminating Dedicated Funds and Their Utilization for General Spending—H.B. 4583

by Representative Pitts—Senate Sponsor: Senator Ogden

The comptroller of public accounts (comptroller) must certify that the state will have enough revenue to pay for approved spending before an appropriations bill enacted by the legislature may be sent to the governor. Since 1991, the legislature has been phasing out restrictions on many dedicated revenue funds and changing the methods of fund accounting. In the past, most dedicated revenue was held in separate “special funds” outside of general revenue, which limited the amount of general revenue available for general purpose spending. In 1991, the comptroller's Texas Performance Review identified 537 state funds in the state treasury, 366 of which held cash balances at the end of fiscal 1990. Since then, the legislature has phased in the consolidation of many dedicated funds into general revenue and has contained the growth of newly created dedicated accounts. By August 31, 1995, 130 consolidated general revenue accounts lost their dedicated status, and 184 were established as dedicated general revenue accounts on September 1, 1995. Section 403.095(b) (relating to availability of dedicated revenues that, on August 31, 2009, are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 80th Legislature, for general governmental purposes) and (c) (requiring the comptroller to develop accounting and revenue estimating procedures so that each dedicated account maintained in the general revenue fund can be separately identified as to balances of cash and other assets and the amounts of revenues and expenditures and appropriations for each fiscal year), Government Code, require that on August 31, 2009, cash balances in dedicated revenue accounts that exceed amounts appropriated or encumbered be transferred into

general revenue and counted as available general revenue by the comptroller. The availability of dedicated revenues for general governmental purposes is scheduled to expire September 1, 2009. Section 403.095 (Use of Dedicated Revenue), Government Code, requires that the comptroller include in the estimate of funds available for general-purpose spending the amounts in general revenue-dedicated accounts expected to exceed appropriations from those accounts at the end of the current biennium. The legislature also may direct the comptroller to transfer these general revenue-dedicated account balances to the unobligated portion of the General Revenue Fund. This bill:

Creates and re-creates certain funds and accounts in the state treasury.

Dedicates and rededicates certain revenue, and exempts unappropriated money from use for general government purposes.

Abolishes all funds and accounts created or re-created in the state treasury by an Act of the 81st Legislature, Regular Session, 2009, that becomes law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an Act of the 81st Legislature, Regular Session, 2009, that becomes law, on the later of August 31, 2009, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect, except as otherwise specifically provided by the bill.

Supplemental Appropriations and Reductions in Appropriations—H.B. 4586

by Representative Pitts et al.—Senate Sponsor: Senator Ogden

Each legislative session, state agencies project the costs of fulfilling their functions and providing important services for the following two-year budget period. This information includes projections related to caseload, population, and enrollment growth, as well as other economic factors and, combined with the biennial estimate of revenues submitted to the governor and the legislature before the convening of each regular session, is a key component of the construction of the General Appropriations Act. This bill:

Authorizes adjustments in appropriations for various state agencies, including adjustments necessary to reimburse agencies for unexpected expenses.

Appropriates certain funds from the American Recovery and Reinvestment Act of 2009 and establishes governing provisions concerning such Act.

Collateralization of Certain Public Funds—S.B. 638

by Senators Nichols and Ellis—House Sponsor: Representative Flynn et al.

Current law does not provide for a pooled collateral program. The current financing program requires a public entity depositing funds with financial institutions in excess of Federal Deposit Insurance Corporation limits to receive a pledge of securities having a market value greater than that of the deposits. This system requires each entity to have its deposits collateralized individually, even if a financial institution holds deposits from several different entities. A pooled collateral program would provide an alternative option to the current system by allowing the funds to be "pooled" by the comptroller. This bill:

Establishes a permissive pooled collateral program.

Provides for the centralization of the collateral function in a pool to be tracked and verified to meet state requirements.

Requires the comptroller to be responsible for the implementation of such a program.

Administration of Certain Housing Funds—S.B. 679

by Senator Lucio et al.—House Sponsor: Representative Yvonne Davis

This is a clean-up bill that was developed in conjunction with the Texas Department of Housing and Community Affairs (TDHCA) to modernize the Housing Trust Fund (HTF) and the Owner-Builder Program (Texas Bootstrap Program) and improve their efficiency as well as effectiveness. The bill:

Clarifies TDHCA's authority to accept gifts, grants, or donations for the HTF and the requirement to produce a report on the planned use of the HTF.

Conforms the statute with adopted agency rules and practices so as to allow those who are helped by established state-certified self-help organizations (e.g., Habitat for Humanity) to be able to participate in the Texas Bootstrap Program.

Updates the loan and funding amounts under the program to reflect the increased costs of construction and materials since the Texas Bootstrap Program was first established in 1999.

Clarifies the type of administrative support that can be provided to help build capacity and strengthen the reach of the Texas Bootstrap Program.

Issuance of State and Local Government Securities—S.B. 2064

by Senators West and Lucio—House Sponsor: Representative Otto

Currently, the Texas Bond Review Board (TBRB) has a perennial task of collecting, analyzing, and formulating reports on the state debt, including debt that has been approved and issued, and TBRB is required to provide time-sensitive reports to the legislature. This bill:

Requires TBRB, not later than December 31 of each even-numbered year, to submit to the legislature a statistical report relating to state securities and bonds and other debt obligations issued by local governments.

Authorizes TBRB to enter into a contract for the procurement of services related to the collection and maintenance of information on the indebtedness of local governments and state agencies necessary to prepare the statistical report.

Requires TBRB, not later than February 15 of each year, to submit the annual study to certain persons.

Provides that if the state ceiling is computed on the basis of \$75 per capita or a greater amount, before August 15 of each year, certain percentages of the state ceiling are available exclusively for certain reservations by issuers.

Provides that 10.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by Section 53B.47 (Guaranteed Student Loans and Alternate Education Loans; Bonds for the Purchase of Education Loan Notes), Education Code, that are nonprofit corporations able to issue a qualified scholarship funding bond as defined by Section 150(d)(2), Internal Revenue Code (26 U.S.C. Section 150(d)(2)).

Provides that on and after August 15, that portion of the state ceiling available for reservations becomes available for all applications for reservations in the order determined by TBRB by lot.

Requires TBRB, if all applicants for a reservation have been offered a portion of the available state ceiling, to grant reservations in the order in which the applications for those reservations are received.

Prohibits the maximum amount of the state ceiling that may be reserved before August 15 by a housing finance corporation for the issuance of qualified mortgage bonds from exceeding certain amounts.

Prohibits a housing finance corporation from receiving an allocation for the issuance of qualified mortgage bonds in an amount that exceeds \$40 million.

Provides that the local population of a housing finance corporation is the population of the local government or local governments on whose behalf a housing finance corporation is created. Provides that if two local governments that have a population of at least 50,000 each and that have overlapping territory have created housing finance corporations that have the power to issue bonds to provide financing for home mortgages, the population of the housing finance corporation created on behalf of the larger local government is computed by subtracting from the population of the larger local government the population of the part of the smaller local government that is located in the larger local government.

Provides that if a housing finance corporation's utilization percentage is less than 80 percent, but at least 25 percent, the next time the corporation becomes eligible for a reservation of the state ceiling, the maximum amount of the state ceiling that is authorized to be reserved for the corporation is equal to the amount for which the corporation would otherwise be eligible under Section 1372.026 (Limitation on Amount of State Ceiling Available to Housing Finance Corporations), Government Code, multiplied by the utilization percentage of the corporation's last bond issue that used an allocation of the state ceiling.

Prohibits a housing finance corporation from being penalized if the corporation fails to use bond proceeds recycled from previous allocations of the state ceiling or taxable bond proceeds, or if as the result of an issuance of bonds, the corporation's utilization percentage is 80 percent or greater.

Provides that if a housing finance corporation's utilization percentage is less than 25 percent, the next time the corporation becomes eligible for a reservation of the state ceiling, the maximum amount of the state ceiling that may be reserved for the corporation is equal to the amount for which the corporation would otherwise be eligible under Section 1372.026 multiplied by 25 percent.

Prohibits a housing finance corporation from being penalized in a program year if, by December 31 of the preceding program year, an amount equal to or less than 50 percent of the aggregate state ceiling available for reservations by issuers of qualified mortgage bonds under Section 1372.022(a)(1) (relating to a percentage of the state ceiling available exclusively for reservations by issuers of qualified mortgage bonds), Government Code, has been used in connection with bond issues that have closed on or before that date, or has had carryforward elections filed on or before that date.

Provides that an issuer that has carryforward available from the state ceiling created by the Housing and Economic Recovery Act of 2008 (Pub. L. No. 110-289) is not restricted by project limits for the state ceiling. Provides that an issuer who uses the carryforward to issue qualified mortgage bonds or mortgage credit certificates is not subject to the utilization percentage calculation in determining the amount of the issuer's reservation request.

Prohibits an issuer from submitting an application for a program year after November 15 of that year.

Prohibits TBRB from granting a reservation of a portion of the state ceiling for a program year before January 2 or after November 15 of that year.

Prohibits TBRB before August 15, except as provided by Section 1372.037(b) (relating to TBRB being authorized to grant a portion of the ceiling for a water development issue), Government Code, from granting for any single project a reservation for that year that is greater than \$40 million if the issuer is an issuer of qualified mortgage bonds, other than the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation;

the lesser of \$20 million, or 15 percent of the amount set aside for reservation by issuers of qualified residential rental project bonds, if the issuer is an issuer of those bonds; or the amount as prescribed in Sections 1372.033(d) (relating to each qualified nonprofit corporation being entitled to receive a floor allocation), (e) (relating to each applicant being entitled to a certain amount), and (f) (relating to an applicant being entitled to a certain percent of the remaining amount to be allocated), Government Code, if the issuer is an issuer authorized by Section 53B.47, Education Code, to issue qualified student loan bonds.

Requires an issuer, in addition to any other fees required by this chapter, to submit to TBRB a nonrefundable fee in the amount of \$500 before receiving a carryforward designation under Section 1372.042(c) (relating to requiring the issuer to close on the bonds before a certain date), Government Code.

Authorizes TBRB to establish and administer programs for the reservation, allocation, and carryforward designation of additional state ceiling in accordance with the federal law that establishes the additional state ceiling and, to the extent consistent with federal law, as TBRB determines will achieve the purposes for which the additional state ceiling is authorized by federal law.

Authorizes TBRB on the last business day of the year to assign as carryforward to state agencies at their request and in the order received any state ceiling that is not reserved or designated as carryforward and for which no application for carryforward is pending.

Authorizes the applicable official to designate bonds as entitled to a portion of a miscellaneous bond ceiling or allocate a portion of a miscellaneous bond ceiling to an issuer of bonds in accordance with the federal law that establishes the federal subsidy for which the miscellaneous bond ceiling is established, and to the extent consistent with the federal law, as the applicable official determines will achieve the purposes for which the federal subsidy is authorized by federal law.

Sets forth conditions under which an application is ineligible for consideration under the low income housing tax credit program.

Authorizes TBRB, in connection with programs established by the applicable official for the allocation of a miscellaneous bond ceiling or the designation of bonds entitled to the federal subsidy limited by a miscellaneous bond ceiling, to charge an application fee for each application it receives under this subchapter.

Repeals Section 1372.0235 (Dedication of Portion of State Ceiling to Texas Agricultural Finance Authority), Government Code.

Financing of Educational and Related Facilities—S.B. 2240

by Senator Zaffirini—House Sponsor: Representative Crownover

Currently, little or no oversight exists for higher education facility authorities (HEFAs). While the bonds that HEFAs authorize are not obligations of the state, they are financial expenses to the borrowing institution, and ultimately could render institutions in need of additional state aid. The creation of an oversight mechanism in the form of notification to the governor, lieutenant governor, speaker of the house of representatives, and the Legislative Budget Board when other bonds such as general obligation bonds and revenue bonds are issued could help prevent financial hardships for cities and institutions.

Officers and employees of cities are prohibited from serving on a HEFA board. Many boards do not meet after the initial issuance of debt. As a result, a crisis can be compounded when meetings are needed but board members have moved or cannot be located. Allowing officers and city employees to serve will allow the board to move quickly and easily to call board meetings when necessary.

Finally, the definition of "educational facilities" does not include athletic facilities. Under current law, bonds are allowed to fund educational and housing facilities but athletic facilities are not included. The Office of the Attorney General (OAG) approves athletic facilities on a case-by-case basis, and only if the institution can show how it will be used for educational purposes. Private universities and colleges have limited financing options for athletic facilities. This bill:

Includes Section 53.40 (Approval of Bonds; Registration; Negotiability) among the sections of the Education Code that apply to and govern a nonprofit corporation and its procedures, bonds, and other obligations.

Requires that bonds issued and the record relating to their issuance be submitted to the OAG and, if OAG finds that they have been issued and constitute valid and binding obligations of the HEFA and are secured as recited therein, OAG is required to approve them, and they are required to be registered by the comptroller, who is required to certify the registration thereon.

Prohibits the OAG, if the OAG does not find that the bonds have been issued in accordance with this chapter and constitute valid and binding obligations of the authority and are secured as recited therein, from approving the bonds, and prohibits the bonds from being registered by the comptroller.

Requires the HEFA, when bonds to be issued to benefit an institution of higher education and the record relating to their issuance are submitted to OAG, to deliver notice of that action to the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board. Requires that the notice include the amount of the bonds to be issued and a description of the facilities to be financed from the bond proceeds.

Redefines "educational facility."

Merger of South Texas Health Care System and Rio Grande State Center—H.B. 1850

by Representative Lucio III et al.—Senate Sponsor: Senators Lucio and Zaffirini

In 2004, the South Texas Hospital was merged into the Rio Grande State Center to form the Rio Grande State Center/South Texas Health Care System. Since the name change many people have been confused with the name being used interchangeably, leading many to believe that there are two different facilities. Another source of confusion is the similarity of the name to the "South Texas Health System," a private hospital with facilities throughout the Rio Grande Valley.

The shortening of the center's name recognizes the historical leadership of the Rio Grande State Center and would also bring great pride to the men and women who have devoted their careers to the service of their patients. This bill:

Provides that a reference in law to the South Texas Health Care System means the Rio Grande State Center.

Provides that an appropriation to the Department of State Health Services for the use and benefit of the South Texas Health Care System is available for the use and benefit of the Rio Grande State Center.

Building Code Standards in Unincorporated Areas of Certain Border Counties—H.B. 2833

by Representatives Marquez and Leibowitz—Senate Sponsor: Senator Shapleigh

Under current law, certain counties do not have authority to adopt building code standards in unincorporated areas of the county. This lack of regulatory authority contributes to the increase in substandard housing, especially in areas along the Texas-Mexico border. This bill:

Requires new residential construction of a single-family house or duplex in the unincorporated area of a county located within 50 miles of an international border that has a population of more than 100 to conform to certain building code requirements.

Requires inspection of new residential construction to ensure building code compliance.

Sets forth provisions authorizing the county to take certain actions to enforce the building code standards.

Additional Seats on the El Paso Public Service Board—H.B. 4004

by Representative Pickett et al.—Senate Sponsor: Senator Shapleigh

The El Paso Public Service Board (PSB) was established in 1952 to manage and operate the water and wastewater system for the City of El Paso. State law limits the governance of the El Paso PSB to a five-member board of trustees consisting of the mayor and four residents of El Paso County.

Given the significant population growth that has occurred in El Paso over the last five decades, the El Paso City Council and the El Paso PSB commissioned a study of best practices on board governance to determine whether the current number of board members was appropriate for a city the size of El Paso. The result was the recommendation that the El Paso PSB be increased from five members to seven members in order to ensure that the El Paso PSB adequately represents the community. This bill:

Authorizes management and control of a utility system to be vested in a board of trustees named in the proceedings adopted by the municipality and consisting of not more than seven members, one of whom must be the mayor of the

municipality, if the municipality is located in a county with a population of at least 600,000 that is located on an international border.

Licensing of Nurses Practicing in Border Counties—H.B. 4353

by Representative Gonzales—Senate Sponsor: Senator Lucio

Under current law, a foreign-educated person applying for a license to practice nursing in Texas must pass a series of examinations, including the Test of English as a Foreign Language (TOEFL). Virtually the entire area along the Texas-Mexico border is classified as a medically underserved area and has a shortage of nurses. However, even though current law requires passage of other examination components that are in English, such as the National Council Licensure Examination, some qualified nurses are prevented from acquiring a license in Texas because of the score requirement on the TOEFL. This bill:

Authorizes the Texas Board of Nursing (BON) to issue a license to a person who is licensed to practice nursing in Mexico if:

- the person graduated from an accredited nursing program in Mexico, provides a report acceptable to BON issued by a credentials evaluation service approved by BON;
- applies on a form prescribed by BON and pays the fee required by BON, has received a score of at least 475 on a Test of English as a Foreign Language examination;
- has received a score acceptable to BON on an English language version of the appropriate National Council Licensure Examination;
- is eligible for employment in the United States; and
- will practice nursing in a county that borders Mexico.

Expansion of Certain Type A Municipality Powers—H.B. 4607

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Zapata County is a county with no incorporated municipality and has previously been granted the powers of a Type A municipality to allow it to control growth and provide ordinance-making powers needed for small towns and rapidly growing areas. Located just south of Laredo on a two-lane highway that will soon be upgraded to a four-lane highway, the area expects rapid growth as transit times are reduced and Laredo residents have the opportunity to move to a low-crime area with lower comparable housing and land prices.

Expanding on the existing statute that allows zoning in areas within 25,000 feet of Falcon Lake and the Rio Grande River to include tributaries to those bodies of water is necessary because these areas provide runoff into the river and the lake and zoning will control pollution and provide for the health and safety of the growing population. This bill:

Provides that Subchapter L (Zoning Around Falcon Lake) applies only to the unincorporated area of counties exercising the powers of a Type A municipality, located within 25,000 feet of the project boundary line for Falcon Lake, the Rio Grande River, and tributaries and arroyos leading to Falcon Lake or to the Rio Grande River.

Imposition, Rate, and Use of the County Hotel Occupancy Tax—H.B. 4781

by Representative Gallego—Senate Sponsor: Senator Uresti

Currently, Brewster County is included among the counties with a seven percent hotel tax cap, but is not included in legislation which exempts municipalities which impose a city-authorized hotel tax. This bill:

Authorizes an eligible central municipality, as defined by Section 351.001 (Definitions), Tax Code, or a municipality with a population of 173,000 or more that is located within two counties to establish, acquire, lease as lessee or lessor, construct, improve, enlarge, equip, repair, operate, or maintain a hotel, and any facilities ancillary to the hotel, including shops and parking facilities that are owned by or located on land owned by the municipality or by a nonprofit corporation acting on behalf of the municipality, and that is located within 1,000 feet of a convention center facility owned by the municipality.

Authorizes an eligible central municipality to pledge the revenue derived from the tax imposed from a hotel project that is owned by or located on land owned by the municipality or, in an eligible central municipality, by a nonprofit corporation acting on behalf of an eligible central municipality, and that is located within 1,000 feet of a convention center facility owned by the municipality for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, and equip the hotel and any facilities ancillary to the hotel, including shops and parking facilities.

Prohibits a municipality with a population of 173,000 or more that is located within two counties and is not an eligible central municipality from pledging revenue, in relation to a particular hotel project, after the earlier of the twentieth anniversary of the date the municipality first pledged the revenue to the hotel project or the date the revenue pledged to the hotel project equals 40 percent of the hotel project's total construction cost.

Provides that a tax imposed by a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 (Municipal Hotel Occupancy Taxes), Tax Code, applicable to the hotel.

Meetings of the Coastal Coordination Council—S.B. 803

by Senator Lucio—House Sponsor: Representative Ybarra

The Coastal Coordination Council (council) is an interagency board composed of representatives of natural resource agencies and public appointees that implements the Texas Coastal Management Program. Current law requires the council to meet quarterly. However, there have been times when a council meeting has been convened only to meet the statutory requirement, the council otherwise having no agenda. This bill:

Requires the council to meet twice each calendar year and as necessary to conduct the business of the council and to set aside time at each meeting for public comment on any issue under the jurisdiction of the council.

Provides that the commissioner of the General Land Office is chair of the council.

Authorizes the chair or any three members of the council to convene meetings at such times and places as they may determine necessary and appropriate.

Closure of the Port of Corpus Christi Authority of Nueces County Texas—S.B. 836

by Senator Hinojosa—House Sponsor: Representative Ortiz, Jr.

In 1987, the Port of Corpus Christi Authority of Nueces County, Texas (authority), conveyed 576.615 acres of land to the United States Navy for the construction and operation of Naval Station Ingleside (NSI). The deed says that this property will revert to the authority when the property is no longer used for maritime purposes by the United States Department of Defense (DoD).

In its 2005 Base Closure and Realignment Commission's recommendations, the DoD recommended the closure of NSI. Assuming no economic recovery, the DoD estimated that this recommendation, along with the recommended realignment of Naval Air Station Corpus Christi, could result in a potential reduction of 6,864 jobs (3,184 direct jobs

and 3,680 indirect jobs). NSI will close in September 2010, if not sooner. With the closure of the naval station at Ingleside, the authority seeks additional statutory authority to provide for security in the channels and waterways under the authority's control. This bill:

Requires that an election relating to the authority be held in the authority as a whole, and not on a county-by-county basis.

Authorizes the governing body of the authority (port commission) to adopt, amend, repeal, and enforce an ordinance, rule, or police regulation necessary to:

protect, secure, and defend the ship channels and waterways in the jurisdiction of the authority and facilities served by those ship channels and waterways; promote the health, safety, and general welfare of any person using the ship channels and waterways in the jurisdiction of the authority; or
comply with a federal law or regulation or implement a directive or standard of the federal government, including the United States Department of Homeland Security and the United States Coast Guard, relating to securing ship channels and waterways and facilities served by ship channels and waterways and preventing terrorist attacks on ship channels, waterways, associated maritime facilities, and other facilities served by ship channels and waterways.

Requires the port commission, in adopting an ordinance, rule, or police regulation, to comply with the procedures provided by Sections 60.074 (Style of Ordinances) and 60.075 (Publication of Ordinance, Rule, or Regulation; Proof of Publication), Water Code.

Authorizes the authority to enter into an interlocal agreement with this state or a county, municipality, or other political subdivision of this state to jointly provide, and share the costs of, security for the ship channels and waterways in the jurisdiction of the authority.

Authorizes the authority, to protect the public interest, to contract with a qualified party, including the federal government, Nueces County, or San Patricio County, for the provision of the law enforcement services in all or part of the jurisdiction of the authority.

Creation of a Cultural Education Facilities Finance Corporation—S.B. 1035

by Senator Hinojosa—House Sponsor: Representative Ortiz, Jr.

Cultural education facilities finance corporations (corporation) may access financing tools to deliver enhanced services—often healthcare-related—to underserved communities. The Cultural Education Facilities Finance Corporation Act (Act), which allows for the creation of corporations, includes a broad category of qualifying services a corporation may provide under the Act and qualify for bond-issuing power.

Corporations formed under the Act may issue bonds to build or renovate facilities. In turn, the corporations increase community access to wellness services, specifically in underserved areas. The corporations secure their own bonds with property and assets. The corporations may also invest and reinvest funds as part of the overall strategy to provide health care services. This bill:

Authorizes the authority of the corporation to be exercised inside or outside the limits of the city that created the corporation if the city is located in a county with a population of more than 300,000, or inside or outside the limits of the county that created the corporation if the county has a population of more than 300,000.

Authorized Public Projects Procurement Methods—S.B. 1047

by Senator Lucio—House Sponsor: Representative Oliveira

Currently, Subchapter J (Design-Build Procedures for Certain Civil Works Projects), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, allows certain local government entities to establish design-build procedures for civil works projects that are primarily civil engineering projects. Among the local governmental agencies included under Subchapter J are certain municipalities, counties, river authorities, hospital districts, and municipally owned water utilities.

The Brownsville Public Utilities Board (Brownsville PUB) needs to be added to the list of local governmental entities eligible to establish design-build procedures for civil works projects. Brownsville PUB has served electric, water, and wastewater capitol projects approved for construction by its board and state regulatory agencies. If Brownsville PUB were authorized to use design-build procedures, these projects would be "shovel ready" and financing of these projects would be eligible to draw down federal funding under the American Recovery and Reinvestment Act of 2009 passed by the United States Congress. This bill:

Provides that Subchapter J applies to a municipally owned combined electric, water, and wastewater utility situated in an economically distressed area and located within 30 miles of the lower Texas Gulf Coast.

Creation of a County Ethics Commission in Certain Counties—S.B. 1368

by Senator Shapleigh—House Sponsor: Representative Marquez

Under current law, El Paso County is authorized to establish an ethics board but without enabling legislation a county cannot authorize its ethics board to impose effective penalties against those who violate ethics standards. An ethics board can censure a public official, make a referral to a law enforcement agency or, if the violator is a county employee, recommend disciplinary action. An ethics board is prohibited from imposing a civil penalty and can take little action when an elected official, lobbyist, or vendor violates ethics standards. This bill:

Authorizes the commissioners court by order to call an election on the question of the creation of a county ethics commission (commission).

Sets forth language for the ballot and certain criteria for the appointment and removal of commission members and the chair of the commission.

Requires the county attorney, or district attorney, or criminal district attorney, as appropriate, with the duty to represent the county in civil matters to represent the commission in all legal matters.

Requires the commission to adopt, publish, and enforce an ethics code governing county public servants.

Authorizes the commission to adopt bylaws, rules, forms, policies, or procedures to assist in the administration of the commission's duties.

Authorizes the commission to be guided by Robert's Rules of Order to the extent that it does not conflict with the constitution and laws of the United States and this state or conflict with other guidelines adopted by the commission.

Requires the commission and commission staff to provide periodic training for persons covered by the ethics code adopted by the commission on at least a quarterly basis and requires that training to contain certain information.

Sets forth required procedures for ethics complaints and hearings.

Authorizes a respondent to appeal the decision of the commission by filing a petition in district court in the county within 30 days after the date of the decision.

Prohibits the county from suspending or terminating the employment of or taking other adverse action against a county employee who in good faith files a complaint or participates in the complaint processing, preliminary review, hearing, or any other aspect of the investigation and resolution by the commission of an alleged violation of the ethics code by a person subject to the ethics code.

Authorizes the commission to issue and enforce a cease and desist order to stop a violation, issue an affirmative order to require compliance with the laws administered and enforced by the commission and issue an order of public censure with or without a civil penalty imposed under Section 161.202.

Authorizes the commission to impose a civil penalty of not more than \$4,000 for the filing of a frivolous or bad-faith complaint. Defines "frivolous complaint."

Requires the commissioners court, if after an ethics commission created pursuant to Section 161.052 has been in effect for at least one year, 10 percent of the qualified voters of the county petition the commissioners court to dissolve the commission, to call an election to determine whether the commission will be dissolved.

Colonia Self-Help Program—S.B. 1371

by Senator Lucio—House Sponsor: Representative Lucio III

Currently, only one organization qualifies as a sponsor for projects through the colonia self-help program established by the Texas Water Development Board (TWDB) under Chapter 15, Water Code. Current law allows only nonprofit organizations specifically organized under Section 501(c)(3), Internal Revenue Code, that have a demonstrated record of experience in self-help projects as of January 1, 2001, to participate in the colonia self-help program. Also under current law, a "colonia" is required to be composed of 11 or more dwellings, which limits the number of communities that may be served through the program. This bill:

Authorizes TWDB to use funds in the colonia self-help account to reimburse a political subdivision or a nonprofit organization for certain eligible expenses incurred in a self-help project that results in the provision of adequate water or wastewater services to a colonia.

Deletes existing text authorizing TWDB to use funds in the account only to reimburse nonprofit organizations eligible under Section 15.954 for expenses incurred in a self-help project that results in the provision of adequate water or wastewater services to a colonia.

Authorizes TWDB to award a grant under the program directly to a political subdivision or nonprofit organization to reimburse the subdivision or organization for expenses incurred in certain self-help projects.

Authorizes TWDB to make an advance of grant funds if TWDB determines that a retail public utility described by Section 15.955(8) (relating to certain information that retail public utilities authorized to provide water or wastewater services to the colonia are required to include) has made a commitment to the self-help project sufficient to ensure that retail water or wastewater service will be extended to the colonia.

Requires a political subdivision or a nonprofit organization, to be eligible to receive a grant under the program, to demonstrate work experience relevant to extending retail water or wastewater utility service to colonias in coordination with retail public utilities and develop a plan that requires self-help project beneficiaries to actively participate in the implementation of the project, in coordination with a retail public utility described by Section 15.955(8).

Requires TWDB, in evaluating an application for a grant under the program, to consider certain factors.

Removes the requirement that the program be co-administered by the office of the secretary of state until the second anniversary of the date on which the program begins operations.

Continued Issuance of Oversize or Overweight Vehicle Permits—S.B. 1373

by Senator Lucio—House Sponsor: Representative Pickett

Currently, the Overweight Corridor Program (program) provides an optional procedure for the issuance of a permit for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties contiguous to the Gulf of Mexico and bordering the United Mexican States. Proceeds from the fee have been used to administer, repair, maintain, and upgrade the state roads used in the program. The program was established in 1997 on an interim basis and, due to its success and excellent safety history, has been extended by the 76th, 78th, and 79th Legislatures. This bill:

Reenacts Subchapter K, Chapter 623, Transportation Code.

Deletes existing text providing that Subchapter K, Chapter 623, Transportation Code, expires June 1, 2009.

Requires that fees, less administrative costs, be used solely to provide funds for the maintenance and improvement of state highways subject to this subchapter.

Authorizes the retention of administrative costs, which are prohibited from exceeding 15 percent of the fees collected, by the Port of Brownsville port authority (port authority).

Requires that the fees, less administrative costs, be deposited in the State Highway Fund.

Requires the Texas Transportation Commission (TTC), with the consent of the port authority, to designate the most direct route from the Gateway International Bridge or the Veterans International Bridge at Los Tomates to the entrance of the Port of Brownsville using:

- State Highways 48 and 4;
- United States Highways 77 and 83; or
- United States Highway 77 and United States Highway 83, East Loop Corridor, and State Highway 4.

Removes the requirement that the port authority issuing permits under Subchapter K make payments to the Texas Department of Transportation to provide funds for the maintenance of state highways subject to Subchapter K.

Composition, Administration, and Duties of the Border Health Institute—S.B. 1526

by Senator Shapleigh—House Sponsor: Representative Pickett

The 76th Legislature, Regular Session, 1999, established the Border Health Institute (institute) in El Paso. The institute was created to facilitate a collaboration of international, national, regional, and local health-related institutions working in the Texas-Mexico border region. In recent years, the institute's activities have been greatly diminished as new organizations with similar missions have evolved. This bill:

Requires the institute to operate in a manner that facilitates and assists the activities of international, national, regional, or local health-related institutions working in the Texas-Mexico border region.

Provides that the institute is composed of the following institutions:

- The University of Texas at El Paso;
- Texas Tech University Health Sciences Center at El Paso;
- El Paso Community College District;
- R. E. Thomason General Hospital;
- El Paso City/County Health District;
- Department of State Health Services; and
- Medical Center of the Americas Foundation

Requires each member of the institute, not later than December 1 of each even-numbered year, to provide a long-term strategic plan for that member to each member of the governing board of the institute, each member of the legislature whose district includes any portion of a county where the institute is established or operating, and the Texas Higher Education Coordinating Board.

Requires that the long-term strategic plan for each member include a statement of the member's goals and objectives for providing health care services to persons living in the border region, providing health care education to persons living in the border region, and conducting research into issues affecting public health in the border region, including certain research.

Removes the requirement that the governing board meet to review the progress of the institute and to determine future actions and operational plans.

Removes references to the institute's physical facilities, resources, and the requirement that the governing board of the institute, in consultation with the institute's members, develop a 10-year strategic plan to guide and evaluate the institute's progress toward achieving the purposes of the institute and that the strategic plan include certain assessments and goals.

Fees for Issuance of Certain Utility Certificates—S.B. 1676

by Senator Hinojosa—House Sponsor: Representative Gonzales

To limit the establishment of *colonias*, or housing developments in unincorporated areas, current law provides for certain restrictions that counties may use to limit subdivision plats in certain unincorporated areas. This bill:

Authorizes the commissioners court to impose a fee for a certificate issued for a subdivision which is located in the county and not within the limits of a municipality.

Authorizes the commissioners court to impose a fee for a certificate issued under this section for a subdivision which is located in the county and not within the limits of a municipality.

Authorizes the amount of the fee to be the greater of \$30 or the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115 (Certification Regarding Compliance With Plat Requirements).

Bill Summers International Boulevard—S.B. 1997

by Senators Lucio and Hinojosa—House Sponsor: Representative "Mando" Martinez

Currently, Farm-to-Market (FM) Road 1015 in Hidalgo County has no designated name. This bill:

Provides that the purpose of this Act is to recognize Bill Summers for his unselfish sacrifices in developing a close relationship between the Rio Grande Valley and the State of Tamaulipas, United Mexican States.

Provides that FM 1015 between U.S. Highway 83 and the Progreso International Bridge is designated as the Bill Summers International Boulevard.

Requires the Texas Department of Transportation to erect a marker indicating the highway number, the designation as the Bill Summers International Boulevard, and any other appropriate information, at each end of the boulevard and at appropriate intermediate sites along the boulevard.

Closure and Modification of Man-Made Passes—S.B. 2043

by Senator Williams—House Sponsor: Representative Bonnen

Rollover Pass is located on the Bolivar Peninsula. It is a man-made pass opened in 1954 to facilitate fishing by providing a tidal exchange between the Gulf of Mexico and Rollover Bay. Rollover Pass is also very close to the Gulf Intercoastal Water Way. Maintenance dredging of the pass costs about \$500,000 to \$1 million annually. This bill:

Authorizes the commissioner of the General Land Office (commissioner), notwithstanding Sections 66.204 (Vessels and Obstructions in Fish Passes) and 81.103 (Property Acquisition; Manner and Means), Parks and Wildlife Code, to undertake a closure or modification a man-made pass or its environs between the Gulf of Mexico and an inland bay if the commissioner determines that the pass causes or contributes to significant erosion of the shoreline of the adjacent beach, the pass is not a public navigational channel constructed or maintained by the federal government, and the General Land Office receives legislative appropriations or other funding for that purpose.

Requires the commissioner, if the closing of a man-made pass results in a loss of public recreational opportunities, to develop, in consultation with the Texas Parks and Wildlife Department and the county and, if applicable, the municipality in which the pass is located, and approve a plan to mitigate the loss.

Requires that the plan be presented to the public for comment before the commissioner approves it.

Requires the commissioner, not later than January 1, 2011, to submit to the 82nd Legislature a report on the progress of the commissioner in implementing any mitigation plan approved under Section 33.613(b), Parks and Wildlife Code.

Regulatory Authority of Platting Requirements by Certain Municipalities—S.B. 2253

by Senator Zaffirini—House Sponsor: Representative Guillen

Currently, colonias are limited to providing only electricity or gas services to lots platted before 1989. Therefore, individual lots are required to now be re-platted before water or sewer services are connected. The result is not only an undue financial burden to re-plat the entire tract of land, but also the limitation of the ability to systematically phase in water and sewer services to areas that need it most. This bill:

Prohibits certain entities from serving or connecting any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 (Certification Regarding Compliance with Plat Requirements), Local Government Code.

Authorizes certain entities, in a county to which Subchapter B (Subdivision Platting Requirements in County Near International Border), Chapter 232 (County Regulation of Subdivisions), Local Government Code, applies, to serve or connect land with water, sewer, electricity, gas, or other utility service that is located in the extraterritorial jurisdiction

of a municipality regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115, if the municipal authority responsible for approving plats issues a certificate stating that certain conditions exist.

Authorizes certain entities to provide utility service to land where certain conditions exist only if the person requesting service is not the land's subdivider or the subdivider's agent, and provides to the entity a certificate.

Authorizes a person requesting service to obtain a certificate only if the person is the owner or purchaser of the subdivided land and provides to the municipal authority responsible for approving plats certain documentation.

Provides that this section does not prohibit a water or sewer utility from providing in a county water or sewer utility connections or service to certain residential dwellings.

Prohibits a utility from serving any subdivided land with water utility connection or service unless the entity receives a determination that adequate sewer services have been installed to service the lot or dwelling from the municipal authority responsible for approving plats, the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code, or certain entities.

Requires the commissioners court, on the commissioners court's own motion or on the written request of a certain person or entity, to make certain determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county.

Prohibits a utility, with certain exceptions, from serving or connecting any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court that adequate water and sewer services have been installed to service the lot or subdivision.

Authorizes certain utilities to serve or connect subdivided land with certain utility services regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) (relating to the requiring the commissioners court to issue an approval) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court containing certain information.

Requires that the prohibition established not prohibit a water, sewer, electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that has adequate sewer services installed that are fully operable to service the lot, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code.

Board of Matagorda County Navigation District No. 1—S.B. 2480

by Senator Hegar—House Sponsor: Representative Weber

The Matagorda County Navigation District No. 1 (district) was established in 1940. Since it was first established, the board of navigation and canal commissioners of the district (board) has been composed of three board members. Originally the board members were appointed by the Matagorda county commissioners. In 1996, a change was made to have the board elected by the citizens of Matagorda County.

The district is home to the Port of Palacios. Its diverse industries contribute to a multi-million dollar business environment. It has become an economic engine for the development of business and creation of new jobs in the region. It is important to broaden membership to further incorporate the community and to retain enough members with experience in the operations of the district. This bill:

BORDER AFFAIRS AND IMMIGRATION

Provides that the district is governed by a board consisting of five members of the board (commissioners) elected at large.

Provides that commissioners serve staggered six-year terms, with the terms of one or two commissioners expiring on November 30 of each even-numbered year.

Requires that an election be held in the district every two years on the uniform election date in November to elect one or two commissioners.

Restoration of Good Conduct Time Forfeited During Imprisonment—H.B. 93

by Representatives Hodge and Guillen—Senate Sponsor: Senator Hinojosa

Under current law, once an inmate's good conduct time has been revoked for a disciplinary offense, the inmate cannot gain the time back through cooperation or good behavior. This bill:

Authorizes the Texas Department of Criminal Justice (TDCJ) to:

- place all or any part of the inmate's accrued good conduct time in suspension; and
- reinstate good conduct time suspended under this Act.

Requires TDCJ to establish a policy regarding the suspension of good conduct time providing that:

- TDCJ will consider the severity of an inmate's offense or violation in determining whether to suspend all or part of the inmate's good conduct time instead of forfeiting the inmate's good conduct time;
- during any suspension period, the good conduct time may not be used to grant privileges to an inmate or to compute an inmate's eligibility for parole or the inmate's date of release to mandatory supervision;
- at the conclusion of the suspension period, TDCJ may forfeit or reinstate the suspended good conduct time based on the inmate's conduct during the period of the suspension; and
- in determining whether to forfeit or reinstate suspended good conduct time, TDCJ must consider the likely impact to public safety resulting from the inmate's release on parole or to mandatory supervision if the good conduct time is reinstated.

Allowing for Certain Criminal Proceedings in the Absence of Certain Defendants—H.B. 107

by Representative Phillips et al.—Senate Sponsor: Senator Seliger

The Code of Criminal Procedure does not allow for the sentencing in absentia of defendants in certain felony cases, even if a defendant is already incarcerated and agrees to felony proceedings without the defendant's presence. This bill:

Requires a court to accept a plea of guilty or nolo contendere from a defendant who is confined in a penal institution if the plea is made:

- in accordance with Article 27.18 [(Plea or Waiver of Rights by Closed Circuit Video Teleconferencing), Code of Criminal Procedure]; or
- in writing before the appropriate court having jurisdiction in the county in which the penal institution is located, provided that the defendant:
 - is notified by the court of the right to counsel and is provided a reasonable opportunity to request a court-appointed lawyer;
 - waives the right to counsel if the defendant elects to proceed without counsel; or
 - waives the right to be present at the taking of the plea or to have counsel present if the defendant has counsel; and
 - if the defendant is charged with a felony, judgment and sentence are rendered in accordance with the conditions and the procedure established by law.

Provides that the judgment and sentence may be rendered in the absence of the defendant in a felony case only if:

- the defendant is confined in a penal institution;

- the defendant is not charged with certain violent felony offenses;
- the defendant in writing before the appropriate court waives the right to be present at the rendering of the judgment and sentence or to have counsel present; affirms that the defendant does not have anything to say as to why the sentence should not be pronounced and that there is no reason to prevent the sentence; states that the defendant has entered into a written plea agreement with the attorney representing the state in the prosecution of the case; and requests the court to pronounce sentence in the case in accordance with the plea agreement;
- the defendant and the attorney representing the state have entered into a written plea agreement that is made a part of the record in the case; and
- sentence is pronounced in accordance with the plea agreement.

Authorizes the rendering of judgment under this Act in the absence of the defendant only after the defendant is notified by the court of original jurisdiction of the right to counsel and the defendant requests counsel or waives the right to counsel in accordance with the Code of Criminal Procedure.

Defines "deadly weapon" and "penal institution."

Authorizes the attorney representing the state, if a defendant enters a plea of guilty or nolo contendere, to request that the defendant submit a fingerprint for attachment to the judgment.

Requires the county in which the defendant is confined to obtain a fingerprint of the defendant and forward the fingerprint to the court accepting the plea.

Relating to the Punishment for Aggravated Assault—H.B. 176

by Representatives Susan King and Riddle—Senate Sponsor: Senator Seliger

In 2007, four-year-old Janie Lynn Delapaz was fatally shot in a drive-by shooting while sleeping in her home in Abilene. This bill:

Provides that it is to be known as the Janie Lynn Delapaz Act.

Makes it a first degree felony for a person in a motor vehicle to knowingly discharge a firearm at or in the direction of a habitation, building, or vehicle, if the person is reckless as to whether the habitation, building, or vehicle is occupied and the person causes serious bodily injury to another.

Delaying Parole Eligibility for Certain Individuals—H.B. 221

by Representative Menendez—Senate Sponsor: Senator Whitmire

Current law does not provide additional consequences to be added to the parole conditions of a convicted felon who evaded arrest for an extended period before being found guilty of committing murder or a sexual offense. Currently, the Penal Code makes it a Class B misdemeanor offense for a person to evade arrest or detention, unless the person uses a vehicle while in flight, in which case the offense is a state jail felony. This bill:

Requires the judge in the trial of an offense under Section 19.02 (Murder), 22.011 (Sexual Assault), or 22.021 (Aggravated Sexual Assault), Penal Code, on the motion of the attorney representing the state, to make and enter an affirmative finding of fact regarding the number of months that elapsed between the date an arrest warrant was issued for the defendant and the date the defendant was arrested for the offense.

Delays the earliest date on which an inmate serving a sentence for murder, sexual assault, or aggravated sexual assault is eligible for parole by three years for every 12 months that elapsed between the date an arrest warrant was issued for the inmate and the date the inmate was arrested for the offense.

Increases the offense of evading arrest or detention to a Class A misdemeanor and makes the offense a state jail felony if the actor has been previously convicted of such offense.

Punishment for Theft of Certain Aluminum, Bronze, or Copper Materials—H.B. 348

by Representative Pena et al.—Senate Sponsor: Senator Carona

Current law makes the theft of aluminum, bronze, and copper wire and cable valued under \$20,000 a state jail felony. However, other items that contain these metals, such as air conditioner coils, are also targeted by thieves. This bill:

Expands current law to include insulated or noninsulated tubing, rods, or water gate stems.

Authority of Animal Control Officers to Carry Bite Prevention Sticks—H.B. 405

by Representative Harless—Senate Sponsor: Senator Huffman

Currently, animal control officers may utilize a bite stick, which is used to deter or prevent an animal from biting. However, these bite sticks resemble a prohibited club under provisions of the Penal Code regarding unlawful weapons. This bill:

Exempts a certified animal control officer who possesses a bite stick while performing official duties or traveling to or from a place of duty from provisions of the Penal Code prohibiting the possession or carrying of a club.

Requires the curriculum for basic and continuing education animal control courses to include principles and procedures to be followed with respect to a bite stick.

Using Certain Auction Proceeds to Compensate Certain Property Owners—H.B. 453

by Representatives Gonzalez Toureilles and Tracy King—Senate Sponsor: Senator Hinojosa

A criminal evading a law enforcement officer may damage private property. This bill:

Authorizes a county law enforcement agency to use funds received from the sale of a motor vehicle abandoned as a result of a vehicular pursuit involving the law enforcement agency to compensate property owners whose property was damaged by such pursuit.

Prohibits such payment from exceeding:

- the net proceeds received from the sale of the motor vehicle;
- \$1,000 per property owner, if more than one property owner's property is damaged; or
- the amount of the property owner's insurance deductible.

Requires the sheriff or constable to submit the proposed payment to the commissioners court for approval before a law enforcement agency may compensate a property owner under this Act.

Advisory Panel Regarding the Prevention of Wrongful Convictions—H.B. 498

by Representative McClendon et al.—Senate Sponsor: Senator Ellis

Since 2001, DNA testing has exonerated 35 people who were wrongfully convicted and imprisoned in Texas. Timothy Cole was wrongfully convicted of rape and died in prison. This bill:

Creates the Timothy Cole advisory panel (advisory panel) on wrongful convictions to assist the Task Force on Indigent Defense (task force) in conducting a study and preparing a report regarding the prevention of wrongful convictions.

Sets forth the composition of such advisory panel.

Names the director of the task force as the presiding officer of the advisory panel.

Requires the advisory panel to meet at the call of the presiding officer, but not less than three times in person and as needed by telephone conference call.

Requires the task force, with the advice and assistance of the advisory panel, to conduct a study regarding the causes of wrongful convictions, procedures and programs to prevent future wrongful convictions, the effects of state law on wrongful convictions, and whether the creation of an innocence commission to investigate wrongful convictions would be appropriate.

Authorizes the task force to request that an entity in the legislative, judicial, or executive branch of state government or a political subdivision provide information to the advisory panel. Authorizes an entity to provide the information unless disclosure is prohibited.

Requires the task force, not later than January 1, 2011, to prepare and submit a report regarding the results of the study, after consulting with the advisory panel, to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with a representative serving on the advisory panel.

Provides that this Act expires January 1, 2011.

Changing the Name of the Crime Stoppers Advisory Council—H.B. 590

by Representative Crownover—Senate Sponsor: Senator Zaffirini

Current law requires the Crime Stoppers Advisory Council within the criminal justice division of the governor's office to certify local level Crime Stoppers organizations. This responsibility does not fit the definition of an advisory council. This bill:

Changes the name of the Crime Stoppers Advisory Council to the Texas Crime Stoppers Council.

Certain Costs Used to Fund Drug Court Programs—H.B. 666

by Representative Gutierrez et al.—Senate Sponsor: Senator Uresti

Current law provides for a court cost of \$50 on the conviction of certain intoxication and drug offenses. This bill:

Increases from \$50 to \$60 the court cost on conviction of certain intoxication and drug offenses.

Requires a person convicted of certain intoxication and drug offenses to pay, in addition to all other costs, \$60 to help fund drug court programs.

Penalty for Theft from a Nonprofit Organization or by Medicare Providers—H.B. 671

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

Currently the degree of punishment for theft from a nonprofit organization or by a Medicare provider is determined by the value of the stolen property. This bill:

Increases the penalty for the offense of theft to the next higher category if it is shown at trial:

- the owner of the property at the offense was a nonprofit organization; or
- the actor was a Medicare provider in a contractual relationship with the federal government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship.

Defines "nonprofit organization."

Eligibility Requirements for Beginning Police Officers in Certain Counties—H.B. 780

by Representative Sylvester Turner—Senate Sponsor: Senator Ellis

Current law requires individuals to meet certain requirements to be eligible for a beginning position with a police department in a municipality with a population of 1.5 million or more, including earning at least 60 credit hours in any area of study at an accredited college or university. This requirement may deter otherwise qualified individuals from applying to be a police officer in those departments. This bill:

Provides that 12 hours of credit earned for training at a police officer training academy operated or sponsored by a municipality may apply toward the 60 credit hours required to be eligible for a beginning position with the police department.

Property Disposition and Use of Photographic Evidence in a Criminal Action—H.B. 796

by Representative Todd Smith—Senate Sponsor: Senator Hegar

Current law sets forth the procedures for returning illegally acquired property and the use of the photographic evidence of that property in a criminal action. Currently, only judges are authorized to hold a hearing to determine the true owner of certain stolen property. This bill:

Changes the definition of property in provisions regarding photographic evidence in theft cases to include any tangible personal property, rather than just property offered for sale or lease by a person engaged in the business of selling goods or services.

Authorizes a magistrate having jurisdiction in the county in which a criminal action for theft or illegal acquisition of property is pending, on the written consent of the prosecuting attorney, to hold a hearing to determine the right to possession of the property.

Authorizes a magistrate, if it is proved to the satisfaction of the magistrate that a person is a true owner of the property and the property is under the control of a peace officer, to direct that the property to be restored to that person by written order.

Transfer of Property from TDCJ to the City of Burnet—H.B. 867

by Representative Aycock—Senate Sponsor: Senator Fraser

Several years ago, the City of Burnet (city) donated certain property adjacent to Burnet Municipal Airport to the Texas Department of Criminal Justice (TDCJ). The city now wants to further develop its airport. This bill:

Requires TDCJ, not later than September 30, 2009, to transfer to the city certain described real property.

Requires the city to use the property only for a purpose benefiting the public interest of the state. If the city uses the property for any other purpose, ownership of the property automatically reverts to TDCJ.

Requires TDCJ to transfer the property by an appropriate instrument of transfer and to retain custody of the instrument after the instrument is filed in the real property records of the county.

Requires the city to pay any transaction fees resulting from the transfer of the property.

Criminal History Information for Sexually-Oriented Business License Applicants—H.B. 960

by Representative Anchia et al.—Senate Sponsor: Senator Carona

Currently, municipalities and counties may require a criminal background check of applicants for licenses for sexually oriented businesses. However, the Federal Bureau of Investigation will not grant municipalities or counties access to nationwide criminal history record information. This bill:

Authorizes a municipality or county that requires a sexually oriented business to obtain a license or permit to obtain from the Department of Public Safety of the State of Texas (DPS) any criminal history record information maintained by DPS relating to a person who is an applicant for, or the holder of, a license or permit for a sexually oriented business issued by the municipality or county; or requests a determination of eligibility for such license or permit.

Notice Regarding Electronically Monitored Inmates or Defendants—H.B. 1003

by Representative Bolton et al.—Senate Sponsor: Senator Whitmire

Currently, neither the Texas Department of Criminal Justice (TDCJ) nor a community supervision and corrections department (CSCD) is required to provide notice to witnesses or victims when a defendant is no longer being electronically monitored. This bill:

Requires TDCJ and CSCDs, when persons convicted of certain offenses are released on parole, mandatory supervision, or community supervision, to notify certain victims or witnesses whenever that person, if subject to electronic monitoring, ceases to be electronically monitored.

Expands existing law to include CSCDs regarding:

- the responsibility of a victim or witness desiring notification to provide certain contact information;
- the duty to make a reasonable attempt to give requisite notice, including when a defendant ceases to be electronically monitored as a condition of release; and
- what constitutes an attempt to give reasonable notice.

Procedures for Forwarding Arrest Warrants or Complaints in Criminal Cases—H.B. 1060

by Representative Miklos—Senate Sponsor: Senator Carona

To make an arrest of a person outside of the county in which the warrant was issued, law enforcement officials in the issuing county must transfer the warrant information to the law enforcement officials in the county where the arrest will be made. Current law requires that an arrest warrant be forwarded by telegraph. This bill:

Authorizes the forwarding of an arrest warrant or a complaint by any method that ensures the transmission of a duplicate of the original warrant or complaint, including secure facsimile transmission or other secure electronic means.

Authorizes the sending to the sheriff of a county a notice by secure facsimile transmission or other secure electronic means that a person has been arrested and committed to the jail in another county.

Administration of Psychoactive Medication to Certain Criminal Defendants—H.B. 1233

by Representative Menendez—Senate Sponsor: Senator Van de Putte

Currently, a criminal court may compel the administration of psychoactive medication where an individual has been found incompetent to stand trial and is refusing medication. Many individuals who do not otherwise qualify for outpatient release remain housed in correctional facilities while awaiting transfer to an inpatient competency restoration facility or residential care facility due to the limited availability of beds and cannot be compelled to take psychoactive medication while incarcerated. Current law also provides that psychoactive medication may be compelled if the patient was ordered to receive treatment to restore competency only if the patient is a danger to himself or others in the inpatient mental health facility in which the patient, is being treated. This bill:

Authorizes a court to issue an order authorizing the initiation of appropriate mental health treatment for the patient awaiting transfer if the court finds by clear and convincing evidence after the hearing that the patient was ordered to receive inpatient mental health services by a criminal court with jurisdiction over the patient, that treatment with the proposed medication is in the best interest of the patient and either:

- the patient presents a danger to the patient or others in the inpatient mental health facility in which the patient is being treated as a result of a mental disorder or mental defect; or
- the patient has remained confined in a correctional facility for a period exceeding 72 hours while awaiting transfer for competency restoration treatment and presents a danger to the patient or others in the correctional facility as a result of a mental disorder or mental defect.

Removes the requirement that the treatment of the proposed medication be in the best interest of the patient.

Provides that the order does not constitute authorization to retain the patient in a correctional facility for competency restoration treatment.

Authorizes a court to consider whether, as a result of a mental disorder or mental defect, the patient presents a danger to the patient or others in the correctional facility.

Strikes reference to "inpatient" regarding the requirement that certain counties pay the costs of a hearing to evaluate the court-ordered administration of psychoactive medication to a patient ordered to receive mental health services.

Provides that Article 46B.086 (Court-Order Medications), Code of Criminal Procedure, applies only to a defendant who meets certain criteria, including a defendant who either:

- remains confined in a correctional facility for a period exceeding 72 hours while awaiting transfer to an inpatient mental health facility, a residential care facility, or an outpatient treatment program;
- is committed to an inpatient mental health facility or a residential care facility for the purpose of competency restoration;
- is confined in a correctional facility while awaiting further criminal proceedings following competency restoration treatment; or
- is subject to Article 46B.072 (Release on Bail), Code of Criminal Procedure.

Provides that this article includes a defendant for whom a correctional facility that employs or contracts with a licensed psychiatrist has prepared a continuity of care plan that requires the defendant to take psychoactive medications

Penalty for Theft of a Driver's License or Personal Identification Certificate—H.B. 1282

by Representative McClendon et al.—Senate Sponsor: Senator Zaffirini

Current law does not directly address the offense of the theft of a driver's license, commercial driver's license, or personal identification certificate. This bill:

Makes the theft of a driver's license, commercial driver's license, or personal identification certificate issued by Texas or another state a Class B misdemeanor.

Discharge of a Jury in a Criminal Case—H.B. 1321

by Representative Hughes—Senate Sponsor: Senator Hegar

Prior to the 80th Legislature, Regular Session, 2007, Texas law required an alternate juror to be discharged when a jury retired to the jury room to consider a verdict. However, this meant that if a juror was excused from deliberation, no alternate juror was available and the court had to declare a mistrial. H.B. 1086, enacted by the 80th Legislature, delayed the discharge of alternate jurors until the jury had reached a verdict. However, some provisions relating to jury discharge were not amended. This bill:

Requires a jury to be discharged if, after the charge of the court is read to the jury, a juror becomes too sick to continue and no alternate juror available, unless the defendant, the defendant's counsel, and the attorney representing the state agree to a jury of 11 members.

Failure to Yield the Right-of-Way to Blind and Disabled Pedestrians—H.B. 1343

by Representatives Menendez and McClendon—Senate Sponsor: Senator Van de Putte

Currently, failure by a motor vehicle driver to take necessary precautions to avoid injuring or endangering a blind or disabled pedestrian is a Class C misdemeanor with a fine not to exceed \$200. This bill:

Increases the penalty for a driver of a vehicle causing serious bodily injury or death to a blind, visually impaired, or disabled person to:

- a fine of not more than \$500; and
- 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year. This community service must include sensitivity training.

Authorizes prosecution of the actor, if the conduct constituting an offense under this Act also constitutes an offense under other law, under either or both provisions.

Disclosure of Certain Information by a Prosecutor to Defense Counsel—H.B. 1360

by Representative Anchia—Senate Sponsor: Senator West

Currently, records held by prosecutors related to a criminal case cannot be shared with the defense for fear that they might be subject to disclosure under the Texas Public Information Act, which requires that all government records be made available to the public, other than for certain specified exceptions. This bill:

Creates an exception to disclosure under the Texas Public Information Act for information released by an attorney representing the state to defense counsel for purposes relating to the pending or reasonably anticipated prosecution of a criminal case.

Definition of Victim and Human Trafficking—H.B. 1372

by Representative Shelton et al.—Senate Sponsor: Senator Van de Putte

Each year, thousands of persons from foreign countries and the United States are trafficked and forced to engage in labor or the sex trade. Texas is a major corridor for human trafficking. This bill:

Expands the definition of "victim" under Chapter 56 (Rights of Crime Victims), Code of Criminal Procedure, to include a person who is the victim of trafficking of persons.

Achievement Awards Presented by TCLEOSE—H.B. 1492

by Representative Driver et al.—Senate Sponsor: Senator Hegar

Under current law, the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) is authorized to present not more than 20 awards each year for professional achievement in the areas of valor, public service, and professional achievement. This bill:

Authorizes TCLEOSE to present awards relating to not more than a total of 20 incidents and accomplishments each year.

Imposition of Conditions on Certain Defendants Charged With Family Violence—H.B. 1506

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

Currently, a person who has been harmed as a result of domestic violence has no way of knowing whether the offender is in the vicinity of the person. This bill:

Authorizes a magistrate in the order for emergency protection to impose a condition provided by this Act, including ordering a defendant's participation in a global positioning monitoring system (GPMS) or allowing the victim or other person protected by the order to participate in the system.

Defines "family violence" and "global positioning monitoring system."

Authorizes a magistrate, as a condition of release on bond, to require a defendant charged with family violence to:

- refrain from going to or near certain locations specifically described in the bond that are frequented by the victim;
- carry or wear a GPMS device and, except as otherwise provided, pay the associated costs; or
- if the victim consents, except as otherwise provided, pay the costs associated with providing the victim with an electronic receptor device that:
 -
- receives GPMS information from the device carried by the defendant; and
- notifies the victim if the defendant is at or near a location covered by the order.

Requires the magistrate to:

- give the victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and to consider the victim's request in determining the locations from which the defendant will be excluded;
- specifically describe any locations that the defendant has been ordered to refrain from going to or near and the minimum distances that the defendant must maintain from those locations;
- provide to an alleged victim certain specified information;
- provide to a victim participating in a GPMS contact information regarding the person employed by a local law enforcement agency whom the victim may call if the defendant violates a condition of bond; and
- consider whether the defendant's participation in a GPMS will deter the defendant from killing, injuring, or threatening the victim before trial.

Authorizes a victim to request that the magistrate terminate the victim's participation in a GPMS.

Prohibits a magistrate from imposing sanctions on the victim for requesting termination or for refusing to participate in a GPMS.

Authorizes the magistrate, if the magistrate determines that a defendant is indigent, to require the defendant to pay costs in an amount that is less than the full amount of the costs associated with operating the GPMS or providing the victim with an electronic receptor device, based on a sliding scale established by local rule.

Requires an entity operating a GPMS to accept the partial amount as payment in full when an indigent defendant pays the partial amount ordered by a magistrate.

Provides that the county in which the magistrate is located is not responsible for payment of any costs associated with operating the GPMS.

Requires a magistrate imposing a condition described by this Act to order the entity operating the GPMS to notify the court and the appropriate local law enforcement agency if a defendant violates a condition imposed under this Act.

Authorizes a magistrate imposing a condition described by this Act to only allow or require the defendant to execute or be released under certain bonds.

Provides that this Act does not limit the authority of a magistrate to impose any other reasonable conditions of bond or enter any orders of protection.

Proceedings for a Plea of Guilty or Nolo Contendere for Certain Misdemeanors—H.B. 1544

by Representative Miklos—Senate Sponsor: Senator Carona

Allowing a defendant charged with misdemeanor punishable only by a fine to have a misdemeanor case disposed of without making a physical appearance in court would expedite the court docket. This bill:

Requires a court to dispose of a case without requiring a court appearance by the defendant if the court receives a plea of "guilty" or a plea of "nolo contendere," by mail or delivered in person, and a waiver of jury trial after the defendant is scheduled to appear in court, but at least five business days before a scheduled trial date.

Authorizes:

- a judge who defers further proceedings without entering an adjudication of guilt and places the defendant on probation to impose a special expense fee on the defendant in an amount not to exceed the amount of the fine that could be imposed on the defendant as punishment for the offense;
- the special expense fee to be collected at any time before the end of probation; and
- the judge to elect not to impose the special expense fee for good cause shown by the defendant.

Requires the amount of the special expense fee be credited toward the payment of the amount of a fine imposed by the judge.

Punishment for the Offense of Criminal Mischief—H.B. 1614

by Representative Betty Brown et al.—Senate Sponsor: Senator Dan Patrick

Under current law, the penalty for the offense of criminal mischief is a Class A misdemeanor when the amount of pecuniary loss is less than \$1,500 and the actor caused disruption of a public service. However, in some cases the theft of certain items, such as copper wiring from telephone poles, may endanger public safety and require the expenditure of taxpayer dollars. This bill:

Makes an offense of criminal mischief a state jail felony if the amount of pecuniary loss is less than \$20,000 and the actor causes complete or partial impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes any public communications or public gas or power supply to be diverted in any manner, including installation or removal of any device for any such purpose.

Exception to the Offense of Unlawful Installation of a Tracking Device—H.B. 1659

by Representative Phil King—Senate Sponsor: Senator Dan Patrick

H.B. 1001, enacted by the 76th Legislature, Regular Session, 1999, created an affirmative defense to prosecution for the offense of unlawful installation of a tracking device for law enforcement officials who install tracking devices on vehicles in the course of criminal investigations or pursuant to a court order for the purpose of gathering information for a law enforcement agency. This bill:

Provides that Section 16.06 (Unlawful Installation of Tracking Device), Penal Code, does not apply to a peace officer who installed the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency.

Comprehensive Reentry and Reintegration Plan for Released Offenders—H.B. 1711

by Representative Sylvester Turner et al.—Senate Sponsor: Senator Whitmire

Each year, more than 70,000 inmates leave prison and return to Texas communities, where they are faced with a lack of the services and structure essential to their successful reintegration into society. This bill:

Authorizes the Texas Department of Criminal Justice (TDCJ) to contract and coordinate with private vendors, units of local government, or other entities to implement the comprehensive reentry and reintegration plan developed under this Act.

Requires any contract entered into under this Act to contain specific performance measures to evaluate compliance with the terms of the contract.

Requires TDCJ to develop 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.

Requires the reentry and reintegration plan to provide for:

- an assessment of offenders entering a correctional facility to determine which skills the offender needs to develop to be successful following release or discharge;
- programs addressing the offenders' assessed needs;
- a comprehensive network of transition programs to address the needs of released or discharged offenders;
- the identification of providers of existing local programs and transitional services with whom TDCJ may contract to implement the reentry and reintegration plan; and
- the sharing of information between providers of services as necessary to adequately assess and address the needs of each offender.

Authorizes the disclosure of an offender's personal health information only if the offender consents and the disclosure does not violate state or federal law.

Requires programs under this Act to be implemented by highly skilled staff who are experienced in working with inmate reentry and reintegration programs; provide offenders with individualized case management and a full continuum of care, life-skills training, education and special education, employment training, appropriate treatment programs, and parenting and relationship building classes; and be designed to build post-release and post-discharge support from the community into which an offender is released or discharged.

Requires TDCJ, in developing the reentry and reintegration plan, to ensure that the reentry program for long-term inmates and reintegration services are incorporated into the plan.

Establishes a reentry task force and sets forth its composition.

Authorizes the reentry task force to identify gaps in services for offenders following their release or discharge and to coordinate with providers of existing local reentry and reintegration programs to make recommendations regarding the provision of comprehensive services to offenders.

Requires TDCJ to:

- adopt and implement policies encouraging family unity while an offender is confined and family participation in an offender's post-release or post-discharge transition to the community;
- consider the impact of department telephone, mail, and visitation policies on the ability of an offender's child to maintain ongoing contact with the offender;

- consider the best interest of the offender's family when determining in which correctional facility to house an offender, and, if possible, house the offender in or near to the county where the offender's family resides; and
- conduct and coordinate research examining the impact of an offender's confinement on the well-being of the offender's child.

Requires TDCJ to conduct and coordinate research to determine whether the comprehensive reentry and reintegration plan and the policies adopted to encourage family unity and participation reduce recidivism rates; and, not later than September 1 of each even-numbered year, report the results of this research to the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with primary jurisdiction over criminal justice and corrections.

Requires TDCJ, not later than January 1, 2010, to adopt and implement the policies required by this Act, and develop and implement the comprehensive reentry and reintegration plan for offenders.

Taking or Attempting to Take a Weapon from a Correctional Employee or Official—H.B. 1721

by Representatives Bohac and Leibowitz—Senate Sponsor: Senator Deuell

Current law makes it unlawful for a person to take or attempt to take a weapon from a peace officer, parole officer, or community supervision and corrections department officer, but does not include county jailers or detention officers. This bill:

Expands current law to include employees or officials of correctional facilities.

Authorizing Administrative Subpoenas for Certain Communications Records—H.B. 1728

by Representative Madden—Senate Sponsor: Senator Whitmire

Cell phones are smuggled into correctional facilities operated by the Texas Department of Criminal Justice (TDCJ) and are used by inmates to contact persons outside of the facilities, including to direct criminal activity. Communications records from the common carrier or an electronic communications service provider contain information about customers or users. This bill:

Authorizes the TDCJ inspector general to issue an administrative subpoena to a communications common carrier or an electronic communications service provider to compel the production of business records disclosing information about customers or users and that are material to certain criminal investigations.

Defines "communications common carrier" and "electronic communications service provider."

Compensation and Services for the Wrongfully Imprisoned—H.B. 1736

by Representative Anchia et al.—Senate Sponsors: Senators Duncan and West

Under current law, certain persons wrongfully imprisoned are entitled to \$50,000 for each year served in prison. However, most leave prison without immediate financial support or without the knowledge and skills necessary to successfully reenter the community. Currently, family members and heirs of a wrongfully imprisoned person receive no compensation for the wrongful imprisonment of the person if he or she dies while in prison or is pardoned posthumously. This bill:

Entitles the heirs, legal representatives, and estate of a deceased person who was wrongfully imprisoned or who received a posthumous pardon to lump-sum compensation.

Sets forth the documents required to be filed by a claimant with the comptroller's judiciary section to apply for compensation.

Entitles a person entitled to compensation in an amount equal to \$80,000, rather than \$50,000, for each year served in prison and compensation for child support payments owed by the person that were not paid during the time served in prison.

Entitles a person who, after serving a sentence in prison for which the person is entitled to compensation, was released on parole or required to register as a sex offender to compensation in an amount equal to \$25,000 for each year served either on parole or as a registered sex offender.

Requires that tuition for up to 120 credit hours at a career center or public institution of higher education be paid on behalf of a claimant if requested by the claimant before the seventh anniversary of the date the claimant received the pardon or was granted relief.

Requires the Texas Department of Criminal Justice and the Texas Correctional Office on Offenders with Medical or Mental Impairments to develop plans to ensure the successful reentry and reintegration of wrongfully imprisoned persons into the community following discharge from prison and to assist wrongfully imprisoned persons in accessing medical and dental services, mental health treatment, and appropriate support services, respectively.

Punishment for Tampering With Governmental Forensic Analyses Records—H.B. 1813

by Representative Vo et al.—Senate Sponsor: Senator Whitmire

Current law makes tampering with records of forensic testing and reports of inspection and maintenance of instruments used to test physical evidence a state jail felony offense. This bill:

Makes it a third degree felony to tamper with:

- a written report of a medical, chemical, or other expert examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action; or
- a written report of the certification, inspection, or maintenance record of an instrument, apparatus or device used in an examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action.

Operation of Private Sector Prison Industries Program—H.B. 1914

by Representatives McReynolds and Christian—Senate Sponsor: Senator Nichols

The Prison Industry Enhancement Certification Program (PIECP) is a program operated by the Texas Department of Criminal Justice (TDCJ) that authorizes businesses to utilize inmate labor in the manufacturing of goods sold across state lines. Federal law requires states to establish certain protections and procedures to prevent PIECP programs from displacing free-world businesses and workers. The Texas Private Sector Prison Industries Oversight Authority (TPSPIOA) was created to fulfill these obligations. This bill:

Requires the Texas Board of Criminal Justice (TBCJ) to approve, certify, and supervise private sector prison industries programs (PSPIPs) operated by TDCJ, the Texas Youth Commission, and county correctional facilities.

Expands the conflicts of interest provisions regarding TBCJ members to include an entity or organization with which TDCJ contracts concerning a PSPIP.

Requires TBCJ members to receive training regarding PSPIPs. A person who is a member on September 1, 2009, must complete the training not later than January 1, 2010.

Changes all references to TPSPIOA to TBCJ.

Requires TBCJ to ensure that PSPIPs are operated in a manner that to avoid the loss of existing jobs for employees in Texas who are not incarcerated.

Defines "governmental entity" and "fair market value."

Provides that PIECP does not authorize TBCJ to direct the general operations of or to govern TYC or county correctional facilities in any manner not specifically authorized by PIECP.

Changes the private sector prison industry expansion account to the private sector prison industry account (account) and strikes language referring to the purpose of the account to construct more facilities and increase the number of participants.

Expands the purposes for which money in the account may be appropriated to pay costs associated with the storage of evidence containing biological material and used in the prosecution and conviction of an offense or of a sexual assault or other sex offense.

Limits the balance of the account to \$1 million.

Prohibits a governmental entity from entering into or renewing a contract with an employer for a PSPIP if the TBCJ determines that the contract has negatively affected or would negatively affect any employer in this state.

Requires TBCJ to adopt rules establishing a procedure to be used in making such determination and requires that the procedure allow an aggrieved employer to submit a sworn statement alleging that the employer has been or would be negatively affected by the contract.

Provides that a contract does not negatively affect an employer if the only negative effect alleged in a sworn statement by the employer is the loss of existing jobs that, at the time the sworn statement is submitted, are performed by workers in a foreign country.

Requires a governmental entity, not later than the 60th day before the date a governmental entity intends to enter into a contract with an employer for a PSPIP, to notify certain enumerated persons or entities and sets forth what must be included in the notice.

Authorizes a governmental entity providing such notice to charge the PSPIP employer for the cost of providing that notice.

Reduces the limit of the number of participants in PSPIPs from 5,000 to 750 and bars the operation of more than 11 cost accounting centers at any one time.

Authorizes TBCJ to allow more than 750 participants at one time on a temporary basis if an employer operating a PSPIP requests in writing that TBCJ temporarily allow more than 750 participants in the PSPIP, and TBCJ determines that there is good cause to temporarily allow more than 750 participants.

Requires TBCJ to adopt rules requiring that a contract entered into by a governmental entity concerning a PSPIP meet certain enumerated requirements; and make certain information available on any public Internet website that is maintained TBCJ and contains information concerning PSPIPs.

Requires the Texas Workforce Commission to adopt rules necessary to implement provisions of this Act.

Repeals provisions regarding TPSPIOA.

Provides that TPSPIOA is abolished on the date on which the TBCJ is designated as the certificate holder for this state by the federal Bureau of Justice Assistance, and that all powers, duties, obligations, rights, contracts, appropriations, records, real or personal property, and personnel of TPSPIOA are transferred to TBCJ.

Requiring Certain Defendants to be Tested for AIDS, HIV, or Related Conditions—H.B. 1985

by Representative Martinez Fischer et al.—Senate Sponsor: Senator Hegar

The federal Violence Against Women Act (VAWA) includes provisions for a grant program targeted at domestic violence, dating violence, sexual assault, and stalking. To be eligible for the program, a state must certify that it has a law or regulation requiring the state, at the request of a sexual assault victim, to administer to the defendant testing for the human immunodeficiency virus (HIV) within 48 hours after the date on which the information or indictment is presented against the defendant. Texas law currently allows for HIV/AIDS testing of an individual after indictment of certain sex offenses and upon discretion of the court, but does not impose a time limit for the testing and does not make the testing mandatory upon the victim's request. This bill:

Requires that a person who is indicted for or who waives indictment for certain sexual offenses, be tested for HIV infection and other sexually transmitted diseases, at the direction of the court, on the court's own motion or on the request of the victim of the alleged offense.

Requires the court, on request of the victim of the alleged offense, to order the defendant to undergo the test not later than 48 hours after an indictment for the offense is presented against the defendant or the defendant waives indictment.

Tolls the running of the 48-hour period if a law enforcement agency is unable to locate the defendant during the 48-hour period allowed for that testing under this Act, until the law enforcement agency locates the defendant and the defendant is present in the jurisdiction.

Requires the court, if the results of a diagnostic test are positive for HIV, to order the defendant to undergo any necessary additional testing within a reasonable time after the test results are released.

Expunction of Arrest Records and Files on Behalf of a Deceased Person—H.B. 2002

by Representatives McCall and Hodge—Senate Sponsor: Senator Ellis

Timothy Cole was wrongly convicted and imprisoned for rape, and he died in prison. His family wants the right to expunge his records of the wrongful conviction. This bill:

Defines "close relative of a deceased person."

Authorizes a close relative of a deceased person who, if not deceased, would be entitled to expunction of records and files, to file on behalf of the deceased person an *ex parte* petition for expunction.

Requires a court, if the court finds that the deceased person would be entitled to the expunction, to enter an order directing expunction.

Creating the Offense of Online Harassment—H.B. 2003

by Representative McCall et al.—Senate Sponsor: Senator Watson

The expanding use of technological communications and Internet social networking sites has increased the opportunities for online harassment. This bill:

Makes it a third degree felony for a person to use the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site without obtaining the other person's consent and with the intent to harm, defraud, intimidate, or threaten any person.

Makes it an offense for a person to send an electronic mail or similar communication that references a name or other item of identifying information belonging to any person without obtaining the other person's consent and with the intent to cause a recipient to reasonably believe that the other person authorized or transmitted the communication and to harm or defraud any person.

Makes such an offense a Class A misdemeanor, except that if the actor commits the offense with the intent to solicit a response by emergency personnel, then the offense is a third degree felony.

Provides that if conduct that constitutes an offense under this Act also constitutes an offense under any other law, the actor may be prosecuted under this Act, the other law, or both.

Grants a defense to prosecution that the actor is any of certain enumerated entities or that the action was taken as an employee of such entities.

Defines "commercial social networking site" and "identifying information."

Defining a Sight Order for Criminal Prosecution Purposes—H.B. 2031

by Representative England—Senate Sponsor: Senator Seliger

Current law references, but does not define, sight orders. This bill:

Defines "sight order" as a written or electronic instruction to pay money that is authorized by the person giving the instruction and that is payable on demand or at a definite time by the person being instructed to pay.

Provides that the term includes a check, an electronic debit, or an automatic bank draft.

Distribution of Proceeds from the Sale of Forfeited Property in a Criminal Case—H.B. 2062

by Representative Gallego—Senate Sponsor: Senator Hinojosa

Under current law, Texas and Southwestern Cattle Raisers Association (TSCRA) special rangers cannot share in the sale proceeds of any stolen assets they helped seize. This bill:

Authorizes an attorney representing the state and TSCRA special rangers to enter into a local agreement allowing the attorney to transfer proceeds from the sale of certain forfeited property to a special fund established for the special rangers, following the deduction of court costs.

Requires the special rangers to use such proceeds solely for law enforcement purposes.

Provides that any expenditures of the proceeds are subject to statutory audit provisions.

Penalties for Assaulting a Family Member by Strangulation or Suffocation—H.B. 2066

by Representative Gallego et al.—Senate Sponsor: Senator Nelson

In domestic violence cases, strangulation is statistically correlated with an increased risk of lethality. This bill:

Makes the assault of certain family members a third degree felony if the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

Increases the penalty for such offense to a second degree felony if the defendant has been previously convicted of certain offenses against certain family members.

Provides that if conduct constituting an offense under this Act also constitutes an offense under another section of the Penal Code, the actor may be prosecuted under either section or both sections.

Identification Cards for Certain Retired Peace Officers—H.B. 2068

by Representative Elkins—Senate Sponsor: Senator Hegar

Current law allows a retired officer to request an identification card from the agency from which he has retired, but the chief of the officer's former department has the option regarding whether to issue that identification card. This bill:

Requires the head of a state or local law enforcement agency from which an officer has honorably retired to, on that officer's request, issue the retired officer identification indicating that the officer has honorably retired from the agency.

Gang-Related Offenses—H.B. 2086

by Representative Moody—Senate Sponsor: Senator Whitmire

Current law provides for increased penalties for certain crimes when the crimes are committed by members of a criminal gang or by defendants engaged in organized criminal activity. This bill:

Expands the offense of engaging in organized criminal activity to include Sections 38.06 (Permitting or Facilitating Escape), 38.07 (Permitting or Facilitating Escape), 38.09 (Effect of Unlawful Custody), or 38.11 (Prohibited Substances and Items in Adult or Juvenile Correctional or Detention Facility or on Property of Texas Department Of Criminal Justice or Texas Youth Commission), Penal Code.

Places the offense of criminal solicitation of a minor in the same category as the solicited offense if the offender is 17 years of age or older, a criminal street gang member, and commits the offense with the intent to further the criminal activities of the gang or avoid detection as a gang member.

Makes it a first degree felony for a person to knowingly initiate, organize, finance, direct, manage, or supervise a criminal street gang or members of a criminal street gang with the intent to benefit, promote, or further the interests of the gang or to increase the person's standing in the gang.

Defines "criminal street gang" and "gang-related conduct."

Creates gang-free zones by increasing the punishment for certain offenses of engaging in organized criminal activity to the punishment prescribed for the next highest category of offense, unless the punishment for the offense is a first degree felony, if the actor is 17 years of age or older and it is shown beyond a reasonable doubt that the actor committed the offense on a school bus or in, on, or within 1,000 feet of a school, institution of higher education, youth center, or playground, or within 300 feet of a shopping mall, movie theater, public swimming pool, or video arcade facility.

Defines "institution of higher education," "playground," "premises," "school," "video arcade facility," "youth center," and "shopping mall."

Authorizes the creation and use of maps showing the location and boundaries of gang-free zones.

Requires the superintendent of each public school district, the administrator of a private elementary or secondary school located in the district, and the governing board of a institution of higher education to ensure that any student handbook or similar publication includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones, starting with the school year or semester beginning in the fall of 2009.

Requires each day-care center, in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission, to distribute to the parents and guardians of children attending the center information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

Makes a criminal street gang or a gang member liable to a state or a governmental entity injured by the violation of a temporary or permanent injunctive order issued to abate a public nuisance.

Authorizes a district, county, or city attorney or the attorney general to sue for money damages on behalf of the state or a governmental entity for actual damages, a civil penalty in an amount not to exceed \$20,000 for each violation, and court costs and attorney's fees.

Authorizes execution on the property of a criminal street gang or a gang member.

Provides that property may not be seized if the owner or interest holder of the property proves by a preponderance of the evidence that the owner or holder was not a member of the criminal street gang and did not violate the temporary or permanent injunctive order.

Requires the owner or interest holder of property in the possession of a criminal street gang or gang member that is subject to execution to show that the property was stolen and that the gang or gang member used or intended to use the property without the owner's or holder's consent.

Requires the attorney general to deposit the monetary damages or civil penalty in the neighborhood and community recovery fund held by the Office of Attorney General.

Requires a district, county, or city attorney who brings suit on behalf of a governmental entity to deposit the monetary damages or civil penalty in an account to be held in trust for the benefit of the community or neighborhood harmed by the violation of a temporary or permanent injunctive order. Provides that such money may be used only to benefit that community or neighborhood.

Requires that interest earned on such money be credited to the fund or account and prohibits the money from being comingled with money held for the benefit of a different community or neighborhood.

Provides that an action brought under this Act does not waive sovereign or governmental immunity.

Expands the definition of "contraband" to include property used or intended to be used in the commission of an offense under Chapter 71 (Organized Crime), Penal Code.

Authorizes the attorney representing the state, if property is subject to forfeiture under Chapter 59 (Forfeiture of Contraband) and Article 18.18 (Disposition of Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and other Contraband), Code of Criminal Procedure, to proceed under either the chapter or the article.

Requires a judge in a criminal trial, on the motion of the attorney representing the state, to make and enter an affirmative finding of fact in the judgment if the judge determines that the applicable conduct was engaged in as part of the activities of a criminal street gang.

Provides that if a defendant is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of an offense for which the judgment contains such affirmative finding, unless the case was transferred to the court under the Family Code.

Authorizes a judge to require the defendant, as a condition of community supervision, to avoid any person, other than a family member, who is an active criminal street gang member.

Authorizes a court granting community supervision to require tracking under an electronic monitoring service for a defendant who is identified as a member of a criminal street gang and has been convicted two or more times or has community supervision or probation for a felony offense; and impose restrictions on a defendant convicted of an organized criminal offense regarding the defendant's operation of a motor vehicle.

Requires a juvenile court, in a disposition hearing regarding a child who has been adjudicated to have engaged in gang-related delinquent conduct, to order the child to participate in a criminal street gang intervention program.

Requires the intervention program to include at least 12 hours of instruction and authorizes such program to include voluntary tattoo removal.

Requires a child required to attend a criminal street gang intervention program, if the child is committed to the Texas Youth Commission (TYC) as a result of the gang-related conduct, to complete the intervention program before being discharged or released under supervision by TYC.

Authorizes a parole panel to require as a condition of release on parole or mandatory supervision that a releasee submit to tracking under an electronic monitoring service if the releasee is identified as a member of a criminal street gang and has three or more times been convicted of, or received a grant of deferred adjudication community supervision or another form of community supervision or probation for, a felony offense.

Authorizes a county by order or a municipality by ordinance to require the owner of property within its jurisdiction to remove graffiti from the property on receipt of notice from the county or municipality (political subdivision), if the political subdivision has offered to remove the graffiti from the owner's property free of charge and the owner has refused the offer. Sets forth procedures for service of the notice.

Requires the order or ordinance to include an exception if the graffiti is located on transportation infrastructure and removal of the graffiti would endanger the person performing the removal.

Requires a property owner to remove the graffiti on or before the 15th day after receipt of a notice.

Authorizes a political subdivision, if the property owner fails to remove the graffiti as required under this Act, to remove the graffiti and charge the removal expenses to the property owner in accordance with a fee schedule adopted by the political subdivision.

Authorizes the political subdivision to obtain a lien against the property for the costs of removing the graffiti and sets forth procedures for obtaining the lien and the priority of such lien.

Provides that Chapter 101 (Tort Claims), Civil Practice and Remedies Code, does not apply to a claim for property damage caused by the removal of graffiti under this Act.

Authorizes a political subdivision or an agency of this state to enact an ordinance or rule that requires a business establishment to display aerosol paint so that customers must have the assistance of the personnel of the business to access the paint.

Provides that it is not a defense to prosecution of the offense of knowingly using a false government that the document contains the statement "NOT A GOVERNMENT DOCUMENT" or similar statement, unless the statement is diagonally printed on the front and back in solid red capital letters at least one-fourth inch high.

Provides that if conduct constituting an offense under Sections 521.454 (False Application), 521.455 (Use of Illegal License or Certificate), or 521.456 (Delivery or Manufacture of Counterfeit Instrument), Transportation Code, also constitutes an offense under another law, the actor may be prosecuted under the section, the other law, or both.

Authorizes criminal information collected for the criminal combination and criminal street gang intelligence database to include evidence that the individual has visited a known criminal street gang member, other than a family member, while the gang member was committed to a penal institution or of the individual's use of technology to recruit new criminal street gang members.

Defines "family member" and "penal institution."

Increases from three to five years the period that the information may be retained in the database.

Provides that the law requiring the specification of the facilities from which a communication is to be intercepted does not apply to an application for an order authorizing the interception of an oral communication if certain conditions are met.

Authorizes a person implementing such order to begin interception only after the person ascertains the place where the communication is to be intercepted.

Authorizes a provider of wire or electronic communications receiving such order to move to modify or quash the order on the ground that the provider's assistance cannot be performed in a timely or reasonable fashion.

Requires the Department of Public Safety of the State of Texas (DPS) to create a public corruption unit not later than December 1, 2010.

Defines "organized criminal activity."

Requires the unit to investigate and assist in allegations of participation in organized criminal activity by a peace officer or a federal law enforcement officer performing duties in this state; assist district attorneys and county attorneys, the United States Department of Justice, or any other appropriate federal department or agency; assist a federal, state or local law enforcement agency, if requested by the agency, with the investigation of law enforcement

officers in the agency; serve as a clearinghouse for information relating to the investigation and prosecution of such allegations; and report to the highest-ranking officer of the Texas Rangers (officer).

Authorizes the officer, with the written approval of the DPS director or of the chair of the Public Safety Commission, to initiate an investigation of such allegations.

Requires such written approval to be based on cause.

Requires a state or local law enforcement agency, to the extent allowed by law, to cooperate with the unit by providing information and exempts such information from public disclosure.

Requires the criminal justice division (division) to administer a competitive grant program supporting regional, multidisciplinary approaches to combat gang violence; award grants to qualified applicants that demonstrate a comprehensive approach to reduce gang violence; and include in its biennial report detailed reporting of the results of the grant program.

Requires the program to be directed toward regions of this state with high levels of gang violence.

Authorizes the division to use any revenue available for the grant program.

Requires the Legislative Budget Board to prepare an annual criminal justice policy impact statement for this Act containing certain information, complete the impact statement not later than December 1 each year, beginning December 1, 2010, and make the report available on its website.

Persons Certified as Peace Officers for Mental Health Assignments—H.B. 2093

by Representative Driver—Senate Sponsor: Senator Hegar

Current law sets out who is eligible for certification as a special officer for offenders with mental impairments. This bill:

Authorizes the Texas Commission on Law Enforcement Officer Standards and Education to certify a county jailer who meets certain requirements as a special officer for offenders with mental impairments; issue a professional achievement or proficiency certificate to a county jailer or justice of the peace who meets certain requirements; and issue such certification prospectively.

Issuance of a Personal Identification Certificate to Inmates of TDCJ—H.B. 2161

by Representatives Sylvester Turner and Marquez—Senate Sponsor: Senator Whitmire

Currently, inmates being discharged or released from the Texas Department of Criminal Justice (TDCJ) may lack proper identification, as the Texas Department of Public Safety of the State of Texas (DPS) has had difficulties accepting TDCJ-issued identification as proof of identity. This bill:

Requires TDCJ to:

- to provide an inmate upon discharge or release with a personal identification certificate;
- before discharging or releasing an inmate, determine whether the inmate has a valid license or personal identification certificate issued under the Transportation Code, and if not, to submit to DPS on the inmate's behalf a request for the issuance of a personal identification; and
- to submit such request as soon as is practicable.

Requires TDCJ, DPS, and the bureau of vital statistics of the Department of State Health Services (DSHS) to adopt a memorandum of understanding establishing their responsibilities with respect to the issuance of a personal identification certificate to an inmate.

Requires DSHS to electronically verify the birth record of an inmate and any other personal information provided by TDCJ and to electronically report the recorded filing information to DPS to validate the inmate's identity.

Requires TDCJ to reimburse DPS or DSHS for the actual costs incurred by those agencies in performing responsibilities established under this Act.

Authorizes TDCJ to charge an inmate for the actual costs incurred.

Provides that this Act does not apply to an inmate who is not legally present in the United States or was not a resident of this state before the person was placed in TDCJ custody.

Provides that for a person whose residence or domicile is a correctional facility or a parole facility:

- a personal identification certificate, commercial driver's license, or a renewal commercial driver's license issued to that person expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance; and
- a driver's license or a renewal driver's license issued to that person expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance, unless an earlier date is provided.

Provides that the fee for a personal identification certificate issued under this Act is \$5.

Requires TDCJ to by rule establish the fee for a personal identification certificate, driver's license, or a commercial driver's license issued to a person whose residence is a correctional facility or a parole facility.

Rights of Certain Crime Victims Regarding Motions for Continuance—H.B. 2236

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

Repeated continuances in a criminal trial may adversely impact certain victims. This bill:

Grants a victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence the right to have the court consider the impact on the victim of a continuance requested by the defendant.

Requires a court:

- when considering a motion for continuance on the part of the defendant, on request by the attorney representing the state, to also consider the impact of the continuance on such victim; and
- to state on the record the reason for granting or denying the continuance, on request by the attorney representing the state or by counsel for the defendant.

Creating the Offense of Continuous Violence Against the Family—H.B. 2240

by Representative Lewis et al.—Senate Sponsor: Senator Nelson

Under current law, repeated episodes of violence against family and household members are treated as isolated incidents and are usually punished as misdemeanors. This bill:

Makes it a third degree felony for a person, during a period of 12 months or less, to two or more times assault another family or household member or a person with whom the person has a dating relationship.

Provides that if the jury is the trier of fact, jurors:

- are not required to agree unanimously on the specific conduct in which the defendant engaged or the exact date when that conduct occurred; and
- must agree unanimously that the defendant, during a period that is 12 months or less, two or more times engaged in assault against such victim.

Provides that a defendant may not be convicted in the same criminal action of another offense involving the same victim when an element of the other offense is conduct that is alleged as an element of an offense under this Act, unless the other offense is charged in the alternative, occurred outside the period in which the offense alleged under this Act was committed, or is considered by the trier of fact to be a lesser included offense of the offense alleged under this Act.

Prohibits a defendant from being charged with more than one count under this Act if all of the specific conduct is alleged to have been committed against a single victim or members of the same household.

Facilities from Which TDCJ Inmates May Be Discharged or Released—H.B. 2289

by Representative Madden et al.—Senate Sponsor: Senator Whitmire

The Texas Department of Criminal Justice (TDCJ) operates 112 prison facilities throughout the state. Currently, all male inmates are required to be released from TDCJ's Huntsville facility, while all female inmates must be released from TDCJ's Gatesville facility. This bill:

Requires TDCJ to establish a procedure through which an inmate is discharged or released from the facility in which the inmate is incarcerated or the facility designated as a regional release facility that is nearest to the facility in which that inmate is incarcerated; and designate six or more facilities as regional release facilities.

Authorizes TDCJ, if it determines that discharging or releasing an inmate is not in the inmate's best interest or would threaten public safety, to release the inmate from another regional release facility.

Requires TDCJ to implement the local and regional discharge and release procedure not later than September 1, 2010.

Punishment for Certain Fraud Offenses Committed Against Elderly Individuals—H.B. 2328

by Representative Guillen et al.—Senate Sponsor: Senator Carona

Current Texas law allows certain offenses to be tried at the next higher category of offense if it is shown at trial that the offense was committed against an elderly individual. However, these offenses do not include forgery, credit card and debit card abuse, or fraudulent use of identifying information. This bill:

Increases the punishment of an offense under Section 32.21 (Forgery), Penal Code, to the next higher category of offense if the offense was committed against an elderly individual.

Provides that an offense under Section 32.31 (Credit Card or Debit Card Abuse), Penal Code, is a felony of the third degree if the offense was committed against an elderly individual.

Increase the punishment for certain offenses under Section 32.51 (Fraudulent Use or Possession of Identifying Information), Penal Code, to the next higher category of offense if the offense was committed against an elderly individual.

Deposition of an Elderly or Disabled Crime Victim or Witness—H.B. 2465

by Representative Chavez et al.—Senate Sponsor: Senator Wendy Davis

Delays in taking the deposition of a crime victim or witness who is disabled or elderly may affect the ability of the victim or witness ability to testify. This bill:

Defines "disabled person" and "elderly person."

Requires a court to order the attorney representing the state to take the deposition of an elderly or disabled person who is the alleged victim of or witness to an offense not later than the 60th day after the date on which the state files an application to take the deposition.

Authorizes the attorney representing the state and the defendant or the defendant's attorney to, by written agreement filed with the court, extend the deadline for the taking of the deposition.

Requires a court to grant a request to extend the deadline if a reason for the request is the unavailability, health, or well-being of the victim or witness.

Provides that in the event of any conflict between the Texas Rules of Civil Procedure governing the taking of depositions and the Texas Code of Criminal Procedure or applicable court rules, the Code of Criminal Procedure and the rules govern.

Authorizes the attorney representing the state and the defendant or defendant's attorney to agree to modify the rules applicable to the deposition by written agreement filed with the court.

Requires a court, if a defendant is unavailable to attend a deposition because of confinement in a correctional facility, to issue any orders or warrants necessary to secure the defendant's presence.

Requires the sheriff of the county in which a deposition of such defendant is to be taken to provide a secure location and sufficient law enforcement personnel to ensure the deposition is taken safely.

Provides that the state's application to take a deposition or notice of deposition is not required to include the identity of any law enforcement agents the sheriff assigns to the deposition and may not serve as a basis for the defendant to object to the taking of the deposition.

Requires the defendant or defendant's attorney, if a defendant is unavailable to attend a deposition for any other reason, to request a continuance from the court.

Authorizes a court to grant the continuance if the defendant or defendant's attorney demonstrates good cause and that the request is not brought for the purpose of delay or avoidance.

Provides that a defendant's failure to attend a deposition or request a continuance constitutes a waiver of the defendant's right to be present at the deposition.

Definition of a Playground Regarding Certain Criminal Activities—H.B. 2467

by Representatives Rodriguez and Leibowitz—Senate Sponsor: Senator Whitmire

The current definition of playground contains requires three or more separate apparatus intended for the recreation of children, such as slides, swing sets, and teeterboards. Many playgrounds consist of play stations as opposed to three or more separate apparatuses. This bill:

Defines playground as containing three or more play stations.

Includes playgrounds in the statute providing for drug-free zones.

Establishing a Peace Officer Employment Opportunity Website—H.B. 2580

by Representative Frost—Senate Sponsor: Senator Deuell

Many Texas law enforcement agencies face manpower shortfalls. The application process for law enforcement personnel is localized, so that applicants must to travel to each location. This bill:

Defines "peace officer."

Requires the Texas Workforce Commission (TWC) to develop, maintain, and promote a statewide Internet website providing information regarding state and local peace officer employment and facilitating the exchange of information between individuals seeking employment as peace officers and state and local law enforcement agencies.

Sets forth the Internet website requirements.

Requires TWC to contract with the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) to develop a license verification interface.

Requires TCLEOSE to provide TWC with technical assistance in the development and testing of the license verification interface.

Requires TWC, if the development and operation of the Internet website and the license verification interface is not possible due to a lack of available funding, to:

- enter into a memorandum of understanding with TCLEOSE to integrate a peace officer job matching database into TWC's existing Labor Exchange System (LES); and
- register a unique Internet domain name that identifies on its face the purpose of the peace officer job matching database. Requires that the domain name and associated link must direct users to a web page with instructions regarding LES and a link to LES.

Criminal Trespass—H.B. 2609

by Representatives Doug Miller and Fletcher—Senate Sponsor: Senator Wentworth

Currently, a person commits an offense by entering or remaining on or in certain property of another without effective consent or by entering or remaining in a building of another without effective consent and the person had notice that the entry was forbidden or received notice to depart but failed to do so. This bill:

Provides that a person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle without consent and the person had notice that entry was forbidden or received notice to depart but failed to do so.

Provides that an offense under this section is:

- a Class B misdemeanor, except as provided by Subdivisions (2) and (3);
- a Class C misdemeanor, except as provided by Subdivision (3), if the offense is committed on agricultural land and within 100 feet of the boundary of the land, or on residential land and within 100 feet of a protected freshwater area; and
- a Class A misdemeanor, if the offense is committed in a habitation or a shelter center, on a Superfund site, or on or in a critical infrastructure facility, or the person carries a deadly weapon, rather than the actor carries a deadly weapon on or about his person, during the commission of the offense.

Expands the defense to prosecution under this section to include if a person is a fire fighter or emergency medical services personnel acting in the lawful discharge of an official duty under exigent circumstances, was an employee or agent of an electric utility, a telecommunications provider, a video service provider or cable service provider, a gas utility, or a pipeline used for the transportation or sale of oil, gas, or related products and performing a duty within the scope of that employment or agency; or a person who was employed by or acting as agent for an entity that had, or that the person reasonably believed had, effective consent or authorization provided by law to enter the property and performing a duty within the scope of that employment or agency.

Repeals Section 30.05(c) (relating to a defense to prosecution that the actor at the time of the offense was a fire fighter or emergency medical services personnel), Penal Code, and Section 30.05(j) (relating to the definition of recognized state), Penal Code.

Forensic Medical Examination of Certain Sexual Assault Victims—H.B. 2626

by Representative Naishtat et al.—Senate Sponsor: Senators Zaffirini and Uresti

Currently, Texas is not in compliance with federal law requiring that sexual assault victims be able to obtain a forensic examination free of charge without having to cooperate with law enforcement and is at risk of losing federal grant funds. This bill:

Grants a victim of sexual assault, to the extent provided by this Act, the right to a forensic medical examination if, within 96 hours of the sexual assault, the assault is reported to a law enforcement agency or a forensic medical examination is otherwise conducted at a health care facility.

Defines "crime laboratory," department," "sexual assault examiner," and "sexual assault nurse examiner."

Sets forth the health care facilities covered by this Act.

Requires a health care facility to conduct a forensic medical examination of the victim of an alleged sexual assault if the victim arrives at the facility within 96 hours after the assault occurred, consents to the examination, and has not reported the assault to a law enforcement agency.

Requires the Department of Public Safety of the State of Texas (DPS) to pay the fees, as set by attorney general rule, for the evidence collection kit and for the forensic portion of an examination conducted within 96 hours after the alleged sexual assault occurred.

Requires the attorney general to reimburse DPS for such fees.

Requires a health care facility that does not provide diagnosis or treatment services to victims of sexual assault to refer a victim seeking a forensic medical examination to a health care facility that provides such services.

Authorizes DPS to develop procedures:

- regarding the submission or collection of additional evidence of the alleged sexual assault other than through an examination as described by this Act; and
- for the transfer and preservation of evidence collected under this Act to a crime laboratory or other suitable location designated by the DPS public safety director.

Sets forth the time during which the receiving entity must preserve the evidence.

Prohibits a victim from being required to participate in the investigation or prosecution of an offense as a condition of receiving a forensic medical examination or to pay for the forensic portion of the medical examination or for the evidence collection kit.

Requires the attorney general and DPS to adopt rules as necessary to implement this Act.

Requires DPS to include in a standard information form for sexual assault survivors a statement that DPS will pay the appropriate fees for the forensic portion of an examination conducted under this Act and for the evidence collection kit.

Unlawful Carrying of a Handgun—H.B. 2664

by Representative Ritter—Senate Sponsor: Senator Hegar

Currently, concealed handgun license holders commit an offense if they intentionally, knowingly, or recklessly carry handguns on the premises of a business that has an alcoholic beverage permit and meets certain requirements. A violation of this provision is a third-degree felony. A business that derives 51 percent of its income from on-premise sales or service of alcoholic beverages is required to display a certain sign at its entrance warning that it is a crime to carry a handgun on the premises. This bill:

Provides that it is a defense to prosecution of a concealed handgun license holder who carried a gun into a bar if the bar did not display the warning sign required by law.

Responsibilities of a Qualified Peace Officer Applicant Awaiting Appointment—H.B. 2799

by Representative Driver—Senate Sponsor: Senator Hegar

Under current law, peace officers are not licensed until they are appointed by a law enforcement agency. Because they are not yet licensed peace officers, they are not required to report being arrested, charged, or indicted for certain crimes. This bill:

Provides that a person who qualifies for a peace officer license but has not yet been appointed as a peace officer has the same reporting responsibilities as a license holder who has been appointed as a peace officer.

Authorizes the Texas Commission on Law Enforcement Officer Standards and Education to determine that a person is ineligible for appointment as a peace officer based on events that occur after the person qualified for a license, but before the person is appointed.

Allowing Certain Claimants Under the Crime Victims' Compensation Act—H.B. 2916

by Representative McReynolds—Senate Sponsor: Senator Whitmire

The Crime Victims' Compensation Act sets forth the dates for filing an application for compensation. In some cases, the victim of the crime may not be identified until after the filing period has expired. Victims of crimes occurring before 1980 are not eligible for compensation. This bill:

Authorizes the filing of an application for a claim based on criminally injurious conduct in violation of Chapter 19 (Criminal Homicide), Penal Code, not later than three years after the date the identity of the victim is established by a law enforcement agency.

Authorizes the attorney general to award compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980, if the conduct was in violation of Chapter 19, Penal Code, the identity of the victim is established by a law enforcement agency on or after January 1, 2009, the pecuniary loss was incurred with respect to the victim's funeral or burial on or after that date, and the claimant files the application for compensation within the limitations period provided by this Act.

Information in the Law Enforcement Information System—H.B. 2932

by Representative Vaught et al.—Senate Sponsor: Senator Carona

Advances in technology have allowed law enforcement agencies to perform DNA analysis of evidence collected before the technology was available. However, once the statute of limitations has run for a particular crime, the offender cannot be prosecuted. This bill:

Defines "criminal justice agency."

Requires the law enforcement information system maintained by the bureau of identification and records (bureau) of the Department of Public Safety of the State of Texas (DPS) to establish and maintain a central index to collect and disseminate information regarding additional offenses that forensic DNA test results indicate a defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only, may have committed.

Authorizes such information to be entered in the central index only if the information is based on forensic DNA test results indicating that the DNA profile of the defendant cannot be excluded as a donor to the DNA profile of a person suspected to have committed an offense, regardless of whether the defendant has been or will be arrested for or charged with that offense.

Requires that the information be submitted in the form of an affidavit signed by a representative of an investigating criminal justice agency, approved by a district judge, and accompanied by a set of the defendant's fingerprints.

Provides that information maintained in the central index under this Act is confidential.

Authorizes DPS, on proper inquiry, to disseminate such information to a criminal justice agency; and a criminal justice agency to disseminate the information to any other criminal justice agency if the dissemination is for a criminal justice purpose.

Provides that a criminal justice agency or its employees is not liable for an act or omission relating to the collection, use, or dissemination of information if that collection, use, or dissemination is performed in accordance with rules adopted by the DPS public safety director (director).

Requires the director to adopt rules to implement and enforce this Act.

Authorizes a defendant to submit to the bureau a request to determine whether the bureau has entered information relating to the defendant into the central index.

Requires the bureau to respond to such request not later than the 10th business day after the date the bureau receives the request.

Authorizes the bureau, before responding to a request, to require reasonable written verification of the identity of the defendant submitting the request.

Requires the head of the bureau, that person's designee, and the head of the DPS crime laboratory in Austin, on receipt of a written request by a defendant, accompanied by a set of the defendant's fingerprints, alleging that inaccurate information relating to the defendant may have been entered into the central index, to determine whether there is a high likelihood that the information is accurate.

Requires the bureau, if the head of the bureau, that person's designee, or the head of the crime laboratory determine there is not a high likelihood that the information is accurate, to promptly remove that information from the central index and notify other appropriate divisions of DPS, the investigating criminal justice agency, and the defendant of the bureau's determination and the removal of the information.

Requires the bureau, if the head of the bureau or that person's designee and the head of the crime laboratory jointly determine there is a high likelihood that the information is accurate, to notify the defendant of that determination.

Requires the director to adopt the rules required by this Act not later than December 1, 2009.

Training for Special Rangers and Special Texas Rangers—H.B. 2991

by Representative Christian—Senate Sponsor: Senators Seliger and Hegar

Current law requires retired special rangers and retired special Texas Rangers to attend mandated crisis intervention training. Special Rangers and special Texas Rangers are exempted from most training requirements because they are retired. This bill:

Exempts honorably retired special rangers or special Texas Rangers from required training on de-escalation and crisis intervention.

Taking or Attempting to Take a Weapon from a Commissioned Security Officer—H.B. 3147

by Representative Todd Smith et al.—Senate Sponsor: Senator Seliger

Private security officers commissioned under the Private Security Act and regulated by the Texas Department of Public Safety protect public and private interests throughout Texas. If such officers are overpowered and their weapons taken, currently the only available punishment for is theft. This bill:

Adds commissioned security officers to Section 38.14 (Taking or Attempting to Take Weapon from Peace Officer, Parole Officer, or Community Supervision and Corrections Department Officer), Penal Code.

Defines "commissioned security officer."

Designation of Certain Fire Marshals and Related Officials as Peace Officers—H.B. 3201

by Representative Phil King—Senate Sponsor: Senator Wentworth

Currently county fire marshals undertake responsibilities that are law enforcement related, such as imposing criminal penalties based on fire code or outdoor burning violations. This bill:

Expands the statutory designation of peace officers to include the fire marshal and any related officers, inspectors, or investigators commissioned by a county under the Local Government Code.

Prosecution and Punishment of the Offense of Arson—H.B. 3224

by Representative Madden—Senate Sponsor: Senator Whitmire

Under current law, it is a third degree felony if a person intentionally starts a fire in or on a building, habitation, or vehicle, with intent to damage or destroy property belonging to another, or with intent to injure any person, and in so doing, recklessly causes damage to the building, habitation, or vehicle. This bill:

Makes it a state jail felony for a person to intentionally start a fire or cause an explosion and in so doing recklessly damage or destroy a building belonging to another or recklessly cause another person to suffer bodily injury or death.

Payment of Temporary Housing Costs for Certain Individuals—H.B. 3226

by Representative Madden et al.—Senate Sponsor: Senator Seliger

Currently, the Texas Department of Criminal Justice (TDCJ) requires that all offenders approved for parole have a verifiable address prior to release. TDCJ contracts for seven halfway houses and two county jails for offenders who do not have an approved address. These halfway houses and county jail beds remain at maximum contract capacity. As a result, there are several hundred offenders who have been approved for parole and who are waiting in prison for an available bed. Available beds also may not be near the county of residence of an offender. This bill:

Provides that the Act applies only to inmates who are eligible for release on parole or to mandatory supervision and to releasees.

Authorizes TDCJ to issue payment for the cost of temporary post-release housing for such inmate or releasee that meets any conditions or requirements imposed by a parole panel and is located in the county of legal residence of the inmate or releasee.

Limits the amount of such payment to no more than the cost to TDCJ to incarcerate the inmate for the period for which the payment is issued.

Requires TDCJ to issue payment out of funds appropriated by the legislature for use in administering the parole system with respect to the housing of inmates on their release.

Requires the TDCJ executive director to adopt rules as necessary to implement this section not later than January 1, 2010, including rules that ensure that the food, hygiene, and clothing needs of an inmate or releasee are adequately met during the period for which the payment is issued.

Requires TDCJ to submit to the Criminal Justice Legislative Oversight Committee a report covering the period from August 1 of the preceding year through September 1 of the year in which the report is submitted. Requires the first report to be submitted not later than September 30, 2010, and the second report not later than September 30, 2011.

Sets forth the required content of the report.

Provides that the reporting requirements expire January 1, 2012.

Offense of Prohibited Substances and Items in Correctional Facilities—H.B. 3228

by Representative Madden—Senate Sponsor: Senator Whitmire

Texas law makes it a third-degree felony offense for an inmate of a correctional facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ) to possess a cellular telephone. This bill:

Makes it an offense to provide, or possess with the intent to provide, certain substances or items to a person in the custody of any correctional facility.

Makes it an offense to provide, or possess with the intent to provide, a cigarette or tobacco product to a person confined in a local jail regulated by the Texas Commission on Jail Standards only if the person violates a rule or regulation adopted by the sheriff or jail administrator.

Makes it an offense for a person to take an alcoholic beverage, controlled substance, or dangerous drug into any correctional facility.

Makes it an offense for a person to possess controlled substance, dangerous drug, or deadly weapon while in any correctional facility.

Makes it an offense for a person confined in any correctional facility to possess a cellular telephone or other wireless communications device or a component of such device.

Extends the affirmative defense to prosecution that the person possessed certain substances pursuant to a prescription issued by a practitioner or while delivering the substances to a warehouse, pharmacy, or practitioner on the property to include alcoholic beverages.

Defines "practitioner," "prescription," "cigarette," "tobacco product," "component," and "correctional facility."

Makes it an offense for a person, with the intent to provide to or make a cellular telephone or other wireless communications device or a component of one of those devices (device) available for use by a person in the custody of a correctional facility, to acquire a device to be delivered to the person in custody, to provide a device to another person for delivery to the person in custody, or to make a payment to a communication common carrier or communication service that provides to its users the ability to send or receive wire or electronic communications.

Authorizes a judge of competent jurisdiction to issue an order authorizing interception of wire, oral, or electronic communications for an offense under Section 38.11, Penal Code.

Authorizes TDCJ and the Texas Youth Commission to own and the office of inspector general (OIG) to possess, install, operate, or monitor certain electronic, mechanical, or other devices.

Requires the inspector general to designate in writing the commissioned officers of OIG who are authorized to possess, install, operate, and monitor electronic, mechanical, or other devices.

Authorizes an investigative or law enforcement officer or other person, on request of OIG, to assist the office in the operation and monitoring of an interception of wire, oral, or electronic communications if the investigative or law

enforcement officer or other person is designated by the respective executive director for that purpose and acts in the presence and under the direction of a commissioned officer of the inspector general.

Makes it a defense to prosecution [for the unlawful interception, use, or disclosure of wire, oral, or electronic communications] that the electronic, mechanical, or other device is possessed by a person authorized to possess the device under this Act.

Authorizes TDCJ to:

- without a warrant, use electronic, mechanical, or other devices to detect the presence or use of a cellular telephone or other wireless communications device in a correctional facility;
- without a warrant, intercept, monitor, detect, or, as authorized by applicable federal laws and regulations, prevent the transmission of any communication transmitted through the use of a cellular telephone or other wireless communications device in a correctional facility; and
- use, to the extent authorized by law, any information obtained, including the contents of an intercepted communication, in any criminal or civil proceeding.

Requires the inspector general, not later than the 30th day after the date on which OIG uses an electronic, mechanical, or other device, to report the use of the device to a prosecutor with jurisdiction in the county in which the device was used or to the special prosecution unit, if that unit has jurisdiction in that county.

Requires OIG to minimize the impact of the device on any communication that is not reasonably related to the detection of the presence or use of a cellular telephone or other wireless communications device in a correctional facility.

Provides that a person confined in a correctional facility does not have an expectation of privacy with respect to the possession or use of a cellular telephone or other wireless communications device located on the premises of the facility; and that any person with whom that person communicates through the use of a cellular telephone or other wireless communications device, does not have an expectation of privacy with respect to the contents of any communication transmitted by the cellular telephone or wireless communications device.

Certain Judicial Determinations for a Federal Firearm Background Check—H.B. 3352

by Representatives Naishtat and Rodriguez—Senate Sponsor: Senator Ellis

The National Instant Criminal Background Check System (NICS) Improvement Act requires states to report information necessary to prohibit the purchase of firearms by felons, domestic violence perpetrators, the criminally insane, persons who have been found to be mentally defective or incompetent to manage their personal affairs, and persons who are mentally ill and involuntarily committed to mental hospitals. Texas does not report information about individuals who have been determined to be mentally ill, mentally incompetent, or mentally incapacitated. This bill:

Defines "federal prohibited person information" (FPPI) which includes certain persons determined to be mentally ill, mentally incompetent, or mentally incapacitated.

Requires the Texas Department of Public Safety of the State of Texas (DPS) by rule to establish a procedure to provide FPPI to the Federal Bureau of Investigation (FBI) for use with NICS.

Authorizes DPS, except as otherwise provided by state law, to disseminate FPPI only to the extent necessary to allow FBI to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

Requires DPS to grant access to FPPI to the person who is the subject of the information.

Provides that FPPI is confidential information and may not be disseminated except as otherwise provided by this Act and other state law.

Requires DPS by rule to establish a procedure to correct department records and transmit the corrected records to FBI when a person provides a copy of a judicial order or finding that a person is no longer an incapacitated adult or is entitled to relief from disabilities, or proof that the person has obtained notice of relief from disabilities under federal law.

Requires a clerk of the court to prepare and forward to DPS certain specified information not later than the 30th day after the date the court orders a person to receive inpatient mental health services, acquits a person in a criminal case by reason of insanity or lack of mental responsibility, commits a person determined to have mental retardation for long-term placement in a residential care facility, appoints a guardian of the incapacitated adult individual based on the determination that the person lacks the mental capacity to manage the person's affairs, determines a person is incompetent to stand trial, or finds a person is entitled to relief from disabilities.

Requires the clerk of the court, if practicable, to forward the information in an electronic format prescribed by DPS.

Requires the clerk of the court, if an order previously reported to DPS is reversed by order of any court, to notify DPS of the reversal not later than 30 days after the clerk receives the mandate from the appellate court.

Provides that the duty of a clerk to prepare and forward information is not affected by any subsequent appeal of the court order, any subsequent modification of the court order, or the expiration of the court order.

Authorizes a person who is furloughed or discharged from court-ordered mental health services to petition the court that entered the commitment order for an order stating that the person qualifies for relief from a firearms disability.

Requires the court, in determining whether to grant relief, to hear and consider evidence about the circumstances that led to imposition of the firearms disability, the person's mental history, the person's criminal history, and the person's reputation.

Provides that a court may not grant relief unless it makes and enters in the record the affirmative findings that the person is no longer likely to act in a manner dangerous to public safety and removing the person's disability to purchase a firearm is in the public interest.

Requires each clerk of the court to prepare and forward information for each order issued on or after September 1, 1989, and or any court orders issued on or after September 1, 1989, and before September 1, 2009, not later than September 1, 2010.

Activation of the Statewide Alert System for Abducted Children—H.B. 3385

by Representatives Coleman and Isett—Senate Sponsor: Senator Hegar

Currently, Amber alerts are issued at the request of local law enforcement by the Department of Public Safety of the State of Texas (DPS) if DPS determines that the request meets certain criteria. This bill:

Expands the criteria that would required DPS to activate the alert system and notify appropriate participants in the alert system, to include when the local law enforcement agency believes that:

- a child younger than 14 years of age has been abducted, regardless of whether the child departed willingly with the other person, if the child has been taken from the care and custody of the child's parent or legal guardian without permission by another person who is more than three years older than the child and not related to the child by any degree of consanguinity or affinity; or
- the abducted child is in immediate danger of becoming the victim of a sexual assault.

Right to an Expunction of Records Relating an Arrest—H.B. 3481 [VETOED]

by Representative Veasey et al.—Senate Sponsor: Senator Harris

Current the law authorizes a person to seek to have the records relating to an arrest expunged if the indictment is not presented or is quashed or dismissed and either the statute of limitations has run or a court finds that the indictment was dismissed or quashed because of mistake, false information, or a similar reason indicating absence of probable cause. This bill:

Entitles a person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor to have all records and files relating to the arrest expunged if:

- the person is tried for the offense, convicted, and subsequently granted relief on the basis of actual innocence with respect to that offense; or
- the person has been released and the charge has not resulted in a final conviction and is no longer pending, provided that there was no court-ordered community supervision for the offense, and an indictment or information charging the person with the commission of a felony or misdemeanor was not presented against the person for the offense at any time before the date of the petition for expunction, and more than 180 days have elapsed from the date of the arrest; was dismissed or quashed, regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, and, if the offense was a felony, more than 180 days have elapsed from the date the indictment or information was dismissed or quashed; or prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired.

Authorizes a district court to expunge all records and files relating to the arrest if:

- the person is tried for and convicted of the offense and was acquitted by a court of appeals if the period for granting a petition for discretionary review has expired; or
- an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the appropriate district court before the person is tried for the offense, regardless of whether an indictment or information has been presented against the person in relation to the offense.

Requires a trial court presiding over a case in which a defendant is convicted and subsequently pardoned or otherwise granted relief on the basis of actual innocence, if the trial court is a district court or a district court in the county in which the trial court is located, to enter an order of expunction not later than the 30th day after the date the court receives notice of the pardon or other grant of relief.

Requires the person seeking expunction to provide to the district court certain information required in the petition for expunction.

Requires the attorney for the state to prepare an expunction order for the court's signature.

Requires the court to:

- include in an expunction order a listing of each state entity or political subdivision and each private entity that may have any record or file that is subject to the order;
- require that the Department of Public Safety of the State of Texas (DPS) and the Texas Department of Criminal Justice return all records and files subject to the expunction order to the court and delete from the public records all index references to the records and files; and
- retain all records and files provided to the court until the statute of limitations has run for any civil case or proceeding relating to the wrongful imprisonment of the person subject to the expunction order.

Provides that a provision authorizing a governmental entity named in an expunction order to obliterate all portions of the record or file that identify the person who is the subject of the order if the return of all records and files subject to the order to the court is impracticable does not apply in cases where the person was subsequently pardoned or otherwise subsequently granted relief on the basis of actual innocence.

Provides that this Act applies to an expunction of arrest records and files for any criminal offense that occurred before, on, or after the effective date of this Act, or for which a pardon or other relief on the basis of actual innocence was granted before, on, or after the effective date of this Act.

Repeals the provision providing that a person's conviction of a felony in the five years preceding the date of the arrest does not affect the person's entitlement to expunction for purposes of an ex parte petition filed on behalf of the person by the director of DPS.

Preservation of Evidence Containing Biological Material—H.B. 3594

by Representative McReynolds—Senate Sponsor: Senator Watson

Current law requires local jurisdictions to preserve biological evidence used in the conviction of a person who committed a crime. However, smaller jurisdictions do not always have the appropriate storage facilities. This bill:

Requires, in a county with a population less than 100,000, that the attorney representing the state, the clerk, or another officer in possession of certain evidence ensure the preservation of the evidence by promptly delivering the evidence to the Department of Public Safety of the State of Texas (DPS) for storage.

Provides that this requirement applies only to certain evidence used to prosecute and convict a defendant for criminal homicide, sexual, and assaultive offenses if the defendant was sentenced to a term of imprisonment of 10 years or more.

Requires DPS to maintain a storage space for the preservation of evidence containing biological material that is delivered to DPS under this Act.

Authorizes DPS to maintain a storage space for the preservation of evidence of a sexual assault or other sex offense.

Requires DPS to adopt rules relating to the delivery, cataloging, and preservation of evidence not later than November 1, 2009.

Requires DPS to begin accepting evidence on January 1, 2010.

Receipt of Books by Mail by a TDCJ Inmate—H.B. 3649

by Representative Marquez et al.—Senate Sponsor: Senator Whitmire

Currently, Texas Department of Criminal Justice (TDCJ) policies only allow bookstores, publishers, or publication suppliers to provide books directly to inmates. This bill:

Requires TDCJ to establish a policy permitting inmates to receive by mail reference books and other educational materials from a volunteer organization that operates certain programs, regardless of whether the organization provides those programs to inmates housed in TDCJ facilities.

Authorizes TDCJ to adopt rules as necessary to implement this Act.

Requires TDCJ to establish the policy as practicable after the effective date of this Act.

Use of Restraints on Pregnant Women and Children in Correctional Facilities—H.B. 3653

by Representative Marquez et al.—Senate Sponsor: Senators Wendy Davis and Van de Putte

Current law does not establish guidelines on the use of restraints on pregnant inmates during certain times of labor, delivery, or recovery. This bill:

Bars the Texas Department of Criminal Justice (TDCJ) from using restraints to control a pregnant woman in TDCJ custody while the woman is in labor or delivery or recovering from delivery, unless the TDCJ director or director's designee determines that the use of restraints is necessary to ensure the safety and security of the woman or her infant, TDCJ or medical personnel, or any member of the public; or prevent a substantial risk that the woman will attempt escape.

Bars the Texas Youth Commission (TYC) from using restraints to control a pregnant child committed to TYC at any time while the child is in labor or delivery or recovering from delivery, unless the TYC executive director or the executive director's designee determines that the use of restraints is necessary to ensure the safety and security of the child or her infant, TYC or medical personnel, or any member of the public; or prevent a substantial risk that the child will attempt escape.

Bars a municipal or county jail from using restraints to control a pregnant woman in the custody of the jail while the woman is in labor or delivery or recovering from delivery, unless the sheriff or another person with supervisory authority over the jail determines that the use of restraints is necessary to ensure the safety and security of the woman or her infant, jail or medical personnel, or any member of the public; or prevent a substantial risk that the woman will attempt escape.

Requires that if restraints are used, the type of restraint and the manner in which the restraint is used must be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

Duties and Reports Regarding Pregnant County Jail Inmates—H.B. 3654

by Representative Marquez et al.—Senate Sponsor: Senators Wendy Davis and Van de Putte

Under current law, the Texas Commission on Jail Standards (TCJS) has not established health care standards for pregnant inmates. Counties are not required to report the number of pregnant inmates detained in jail. This bill:

Requires TCJS, not later than January 1, 2010, to adopt reasonable rules and procedures establishing minimum requirements for county jails to determine whether a prisoner is pregnant, and to ensure that the jail's health services plan addresses medical and mental health care for pregnant prisoners.

Requires each county to include in its monthly report to TCJS the number of prisoners confined in the county jail who are known to be pregnant.

Requires a county to submit the first report containing the information required under this Act not later than October 5, 2009.

Documents Required to Transfer a Defendant from a County to TDCJ—H.B. 3671

by Representative Sheffield—Senate Sponsor: Senator Hegar

Current law sets forth the documents that are required for the transfer of a defendant from a county to the Texas Department of Criminal Justice (TDCJ). This bill:

Deletes a copy of the record of arrest for each offense from the statutory list of documents that the county must provide to TDCJ.

Services, Prosecution, and Training Related to the Offense of Human Trafficking—H.B. 4009

by Representative Weber et al.—Senate Sponsor: Senator Van de Putte

Human trafficking is a problem in Texas. Currently, Texas has a system in place for international victims of human trafficking. This bill:

Requires the office of the attorney general (OAG), not later than December 1, 2009, to establish the human trafficking prevention task force (task force) to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes.

Sets forth the composition and duties of the task force, including the collection and publication of statistical data on the nature and extent of human trafficking in Texas.

Requires OAG to supervise the administration of the task force and provide the necessary staff and facilities to assist the task force in performing its duties.

Requires the task force, not later than December 1 of each even-numbered year, to submit a report regarding the task force's activities, findings, and recommendations, including any proposed legislation, to the governor, the lieutenant governor, and the legislature. Provides that the section establishing this task force expires September 1, 2013.

Defines "domestic victim" and "victim of trafficking."

Requires the Health and Human Services Commission (HHSC) to develop and implement a program designed to assist domestic victims of human trafficking.

Requires the program to include a searchable database of assistance programs and other services for domestic victims; the grant program established under this Act; recommended training programs for judges, prosecutors, and law enforcement personnel; and an outreach initiative to ensure that victims, judges, prosecutors, and law enforcement personnel are aware of the availability of services through the program.

Requires HHSC to establish a grant program to award grants to public and nonprofit organizations that provide assistance to domestic victims, subject to available funds.

Sets forth the grant application process.

Requires HHSC, in awarding grants, to give preference to organizations that have experience in successfully providing the types of services for which the grants are awarded.

Requires grant recipients to provide reports as required by HHSC regarding the use of grant funds.

Requires HHSC, not later than December 1 of each even-numbered year, to submit a report to the legislature summarizing the activities, funding, and outcomes of programs awarded a grant and providing recommendations regarding the grant program.

Requires HHSC, with assistance from the Office of Court Administration of the Texas Judicial System, the Department of Public Safety of the State of Texas, and local law enforcement agencies, to create training programs designed to increase the awareness of judges, prosecutors, and law enforcement personnel of the needs of domestic victims, the availability of services, the database of services, and potential funding sources for those services.

Authorizes HHSC to use appropriated funds and to accept gifts, grants, and donations from any sources for purposes of the victim assistance program.

Requires HHSC to conduct a study regarding additional funding strategies for the victim assistance program identifying appropriate revenue streams.

Requires HHSC to submit a report regarding the results of the study to the 82nd Legislature not later than December 1, 2010, and sets forth what the report must include.

Provides that the provisions regarding the study and report expire January 1, 2011.

Creates the trafficking of persons investigation and prosecution account (account) in the general revenue fund, composed of legislative appropriations and other money required by law to be deposited in the account.

Requires income from money in the account to be credited to the account.

Provides that statutes regarding the use of dedicated revenue and disposition of interest on investments do not apply to the account.

Authorizes the legislature to appropriate money from the trafficking of persons investigation and prosecution account only to the criminal justice division (division).

Requires the division to use the appropriated money solely to distribute grants to counties that have dedicated personnel to identify, prevent, investigate, or prosecute human trafficking offenses, and to nongovernmental organizations that provide comprehensive services to prevent the commission of such offenses or to address the needs of victims of those.

Limits the total amount of grants that may be distributed from account during each state fiscal year to \$10 million.

Requires the Texas Juvenile Probation Commission executive director (director) to establish a committee to evaluate alternatives to the juvenile justice system, such as government programs, faith-based programs, and programs offered by nonprofit organizations, for children who are accused of engaging in acts of prostitution.

Authorizes the director to determine the committee's size and sets forth the composition of the committee.

Requires the committee, not later than January 1, 2011, to deliver to each legislator a report that includes the results of the study and recommendations for alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution.

Provides that the provisions regarding the committee expire on June 1, 2011.

Requires the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) to by rule require an officer first licensed on or after January 1, 2011, to complete within a reasonable time after obtaining the license a one-time basic education and training program on human trafficking. Sets forth the requirements of such program.

Requires TCLEOSE to make available to each officer a voluntary advanced education, instruction, and training program on the trafficking of persons and compelling prostitution.

Requires TCLEOSE, not later than January 1, 2011, to begin offering the basic and advanced programs.

Requires an officer, in order to obtain an intermediate or advanced proficiency certificate issued by TCLEOSE on or after January 1, 2011, to complete the basic education and training program.

Requires TCLEOSE, not later than December 1, 2010, to adopt the rules necessary to implement this Act.

Makes it an offense for a person to knowingly traffic another person with the intent or knowledge that the trafficked person will engage in forced labor or services, or to benefit from participating in a venture that involves such activity.

Provides that such an offense is a first degree felony if the conduct constitutes an offense of compelling prostitution or sexual performance by a child and the trafficking victim is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knew the age of the child at the time.

Provides that it is a defense to prosecution for prostitution that the actor engaged in the conduct because the actor was the victim of human trafficking.

Increases the age of the child victim in the offense of compelling prostitution from younger than 17 years of age to younger than 18 years, regardless of whether the actor knew the age of the child at the time the actor commits the offense.

Sealing Court Records Containing Medical Information for Certain Child Victims—H.B. 4136

by Representative Rios Ybarra et al.—Senate Sponsor: Senator Van de Putte

The privacy of medical records are generally protected under law by the federal Health Insurance Portability and Accountability Act. However, when medical records are admitted into a court's record, they become part of the open record of the court. This bill:

Defines "child" and "medical records."

Requires a court, on a motion by certain parties, to seal the medical records of a child who is a victim of certain criminal offenses.

Authorizes the motion to be filed on the court's own motion or by the attorney representing the state, the defendant, the parent or guardian of a child victim, or the victim, if the victim is no longer a child.

Requires the court to grant the motion without a hearing unless the motion is contested not later than the seventh day after the date the motion is filed.

Provides that the court is not required to seal the records on a finding of good cause after such hearing.

Bars the inspection of the sealed medical records by any person except on further order of the court after:

- notice to a victim's parent or guardian or, if the victim is no longer a child, notice to the victim, and a finding of good cause;
- in connection with a criminal or civil proceeding as otherwise provided by law; or
- on request of the victim's parent or legal guardian or, if the victim is no longer a child, on request of the victim.

Provides that a clerk of court is not liable for any failure to seal medical records, except on a showing of bad faith.

Definition of a Switchblade Knife and the Offense of Prohibited Weapons—H.B. 4456

by Representative Driver—Senate Sponsor: Senator Deuell

The Texas Penal Code defines an illegal switchblade as any knife that has a blade that folds, closes, or retracts into the handle or sheath, and that opens automatically with the press of a button and the assistance of a spring or centrifugal force. In recent years, knife manufacturers have begun production of knives designed to be opened by one handed operation which require the user to exert force on the blade of the knife to overcome a mechanism holding the blade closed. This bill:

Excludes from the definition of a switchblade knife a knife that has a spring or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to open the knife.

Crime Victim Information in a Criminal Judgment—H.B. 4464

by Representative Gallego—Senate Sponsor: Senator Hegar

Under current law, a judgment in a criminal case must include, in the event that the court orders restitution to be paid to the victim, the name of the victim and the victim's permanent mailing address at the time of the judgment, or if the court determines that the inclusion of the victim's name and address is not in the best interest of the victim, the name and address of a person or agency that will accept and forward restitution payments to the victim. This bill:

Requires that a judgment, in the event that the court orders restitution to be paid to the victim, include the name and address of a person or agency that will accept and forward restitution payments to the victim; or if the court specifically elects to have payments made directly to the crime victim, the name and permanent address of the victim at the time of judgment.

Requires that a restitution order require the defendant to make restitution directly to the person or agency that will accept and forward restitution payments to the victim or other person eligible for restitution, including the compensation to victims of crime fund; make restitution directly to the victim or other person eligible for restitution, including the compensation to victims of crime fund; or deliver the amount or property due as restitution to a community supervision and corrections department for transfer to the victim or person.

Eligibility of Certain Persons for a Pardon—S.B. 223 [VETOED]

by Senator West—House Sponsor: Representative Thompson

Under deferred adjudication, a defendant accepts responsibility for a crime and the judge defers a finding of the defendant's guilt and the imposition of a sentence, instead placing the defendant on a period of supervision. If the defendant successfully completes deferred adjudication, no conviction or sentence is entered in the defendant's record. The Texas governor has no power, constitutionally or statutorily, to issue a pardon to a person who has successfully completed community supervision. The Texas attorney general has ruled that because the charges are dismissed upon completion of a deferred adjudication sentence, there is no conviction to be pardoned. This bill:

Expands the governor's power to grant reprieves and commutations of punishments and pardons to include defendants who have successfully completed a term of deferred adjudication community supervision.

Entitles a person to have all records and files relating to the arrest expunged if the person is placed on deferred adjudication community supervision, the judge subsequently discharges the person and dismisses the proceedings, and the person is subsequently pardoned for the offense.

Provides that this Act takes effect only if the constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, authorizing the governor to grant a pardon to a person who successfully completes a term of deferred adjudication community supervision is approved by the voters.

Punishment for the Offense of Theft in Certain Evacuated or Disaster Areas—S.B. 359

by Senator Dan Patrick—House Sponsor: Representative Eiland

After Hurricane Ike, local officials reported instances of looting in abandoned or evacuated areas. The Penal Code lists certain offenses for which punishment is increased to the next higher category of offense if the offense was committed under certain circumstances. This bill:

Provides that the punishment for an offense is increased to the punishment prescribed for the next higher category of offense if it is shown on the trial of the offense that the offense was committed in an area that was subject to a declaration of a state of disaster made by certain government officials.

Provides that the increase in punishment authorized by this bill applies only to an offense under Section 22.01 (Assault), Section 29.02 (Robbery), Section 30.02 (Burglary), and Section 31.03 (Theft), Penal Code.

Prosecution of Certain Misdemeanors When the Defendant Does Not Appear—S.B. 413

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

The charging instrument in Class C misdemeanor cases is the complaint, the filing of which tolls the statute of limitations. Only when a defendant pleads "not guilty" to the citation is the state required to prepare and file a complaint. Complaints are not filed in most Class C cases because defendants may enter a plea to a citation or fail to appear in response to a citation for the offense, therefore not entering a plea. Consequently, the statute of limitations is not tolled and once the statute of limitations period has run, the Class C offense can no longer be prosecuted. This bill:

Requires that a complaint be filed if the defendant fails to appear based on written notice.

Electronic Hearing on Defendant's Ability to Discharge Fines and Court Costs—S.B. 414

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

A defendant arrested pursuant to a *capias pro fine*, which is a writ for collecting a fine, must be brought for a hearing before the court that issued the *capias pro fine*. This bill:

Authorizes a defendant to be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented for certain hearings.

Defines "electronic broadcast system."

Arraignment for Persons Charged With Fine-Only Misdemeanors—S.B. 415

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

Current law requires a magistrate to release an accused person without bond and then order him or her to appear at a later date for arraignment "in the county court or statutory county court." Misdemeanors punishable by fine only are heard in justice and municipal courts as opposed to county-level courts. This bill:

Authorizes a magistrate to release the accused without bond and order the accused to appear at a later date for arraignment in the applicable justice court or municipal court.

Penalty Group Classification of Certain Controlled Substances—S.B. 449

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

The Texas commissioner of health (commissioner), who oversees the Department of State Health Services, places individual prescription and non-prescription drugs on one of five administrative lists or "schedules" based on their propensity to create user dependence. Drugs are categorized under statute into four distinct "penalty groups" based on their schedule designation. These statutory penalty groups are located in the Controlled Substances Act (Chapter 481, Subchapter D, Health and Safety Code). This bill:

Adds certain drugs to Penalty Group 1, Penalty Group 2, and Penalty Group 3.

Authority for Emergency Use of a Device to Intercept Certain Communications—S.B. 537

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

Currently, only a district judge or higher-level judge may approve emergency applications for wire taps. This bill:

Authorizes a judge of competent jurisdiction to consent to the interception of a wire, oral, or electronic communication in an immediate life-threatening situation.

Offenses Relating to Dog Fighting—S.B. 554

by Senator Whitmire—House Sponsor: Representative Frost

Currently, Texas has no law making it a criminal offense to possess dog-fighting equipment. This bill:

Makes it a Class A misdemeanor to intentionally or knowingly own or possess dog-fighting equipment with the intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting.

Defines "dog-fighting equipment."

Makes it an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, a person commits or conspires to commit any offense under Section 42.10 (Dog Fighting), Penal Code.

Expands the definition of "contraband" under the Chapter 59 (Forfeiture of Contraband), Code of Criminal Procedure, to include property of used in the commission of an offense under Section 42.10, any proceeds gained from such offense, and any property acquired with such proceeds.

Authorizes the attorney representing the state, if such property is subject to forfeiture under Chapter 59 and Article 18.18 (Disposition of Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and other Contraband), Penal Code, to proceed under either provision.

Discovery of Child Pornography Evidence in Criminal Hearings—S.B. 595

by Senator Hegar—House Sponsor: Representative Gallego

Under current law, defendants charged with possession or promotion of child pornography are able to retain copies of the evidence against them, including child pornography. This bill:

Prohibits a court, during the course of a criminal hearing or proceeding, from making property or material that constitutes child pornography available for copying or dissemination to the public.

Requires the court to place such property or material under seal on conclusion of the criminal hearing or proceeding.

Authorizes the court to lift the seal on a finding that it is in the best interest of the public.

Authorizes the attorney representing the state to access the property or material.

Authorizes the defendant, the defendant's attorney, and any individual the defendant seeks to qualify to provide expert testimony, to access the property or material as provided under this Act.

Requires a court to allow discovery regarding the property or material that constitutes child pornography.

Requires the property or material to remain in the care, custody, or control of the court or the state.

Authorizes a court to deny a defendant's request to photograph or otherwise reproduce any property or material, provided that the state makes the property or material reasonably available to the defendant.

Provides that property or material is considered to be reasonably available to the defendant if, at a facility under the control of the state, the state provides ample opportunity for the inspection, viewing, and examination of the property or material by the defendant, the defendant's attorney, and any individual the defendant seeks to qualify to provide expert testimony.

Creating DNA Records for the DNA Database System—S.B. 727

by Senator Dan Patrick—House Sponsor: Representative Vaught

Under current law, those sentenced to the Texas Department of Criminal Justice (TDCJ) or the Texas Youth Commission (TYC) are mandated to provide a DNA sample. In addition, those convicted of sex crimes must provide

a DNA sample. However, individuals sentenced to probation and those on deferred adjudication currently are not required to provide a DNA sample. This bill:

Requires a court or jury making a disposition under the Family Code in which a child is adjudicated as having engaged in conduct constituting the commission of certain felonies and the child is placed on probation to require as a condition of probation that the child provide a DNA sample for the purpose of creating a DNA record of the child, unless the child has already submitted the sample under other state law.

Requires a judge granting community supervision to a defendant convicted of a felony to require that the defendant, as a condition of community supervision, provide a DNA sample for the purpose of creating a DNA record of the defendant, unless the defendant has already submitted the sample under other state law.

Requires the juvenile court in such adjudication to order the child, parent, or other person responsible for the child's support to pay to the court as a cost of court a \$50 fee if the child is committed to a facility operated by or under contract with TYC, and a \$34 fee if the disposition of the case does not include a commitment and the child is required to submit a DNA sample under state law.

Requires a person to pay as a cost of court \$34 on placement of the person on community supervision, including deferred adjudication community supervision, if the person is required to submit a DNA sample under this Act.

Requires the clerk of the court to transfer to the comptroller of public accounts (comptroller) such funds.

Requires the comptroller to credit the funds to the Department of Public Safety to help defray the cost of any analyses performed on DNA samples provided by defendants or children.

Authorizes the court to waive the imposition of the court cost if the court determines that the defendant is indigent and unable to pay the cost.

Authorizes the court to waive the fee if the court finds that a child, parent, or other person responsible for the child's support is unable to pay the fee and enters a statement of that finding into the case record.

Updates statutes setting out other fees.

Expands the definition of "criminal justice agency" to include a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice, a secure correctional facility, a community supervision and corrections department, a parole office, or a local juvenile probation department or parole office.

Requires TYC to collect a DNA sample from the individual who has committed a felony and is placed in TYC custody during the initial examination or at another time determined by TYC.

Requires a community supervision and corrections department, a parole office, or a local juvenile probation department or parole office to collect the sample from an individual who is required under law to provide a DNA sample and is in the agency's custody or under its supervision at a time determined by the agency.

Requires a criminal justice agency of this state that agrees to accept custody or supervision of an individual from another state or jurisdiction under an interstate compact or a reciprocal agreement with a local, county, state, or federal agency to collect a DNA sample if the individual was convicted of or adjudicated as having engaged in conduct constituting a felony and is otherwise required to provide a DNA sample.

Time Allowed to Execute a Search Warrant for a DNA Specimen—S.B. 743

by Senator Wentworth—House Sponsor: Representative Gutierrez

Currently, a law enforcement officer has three days to execute a search warrant, excluding the day of issuance and the day of execution. When a law enforcement officer is issued a warrant for a biological sample, the suspect may be able to evade the officer until the warrant expires, requiring the officer to return to the court to obtain another warrant. This bill:

Provides that the time allowed for the execution of a search warrant, exclusive of the day of its issuance and of the day of its execution, is 15 whole days if the warrant is issued solely to search for and seize specimens from a specific person for DNA analysis and comparison.

Allowing Certain Claimants to Apply Under the Crime Victims' Compensation Act—S.B. 808

by Senator Whitmire—House Sponsor: Representative Gallego

Under current law, the attorney general may not award economic compensation under the Crime Victims' Compensation Act (CVCA) for a claim arising from criminally injurious conduct that occurred before January 1, 1980. However, in some homicide cases, the victim may not be identified until long after the crime occurred. This bill:

Requires a claimant to file an application under CVCA for a claim based on a violation of Chapter 19 (Criminal Homicide), Penal Code, not later than three years after the date the victim's identity is established by a law enforcement agency.

Authorizes the attorney general to award compensation for pecuniary loss arising from criminally injurious conduct that occurred before January 1, 1980, if the conduct was in violation of Chapter 19, the victim's identity is established by a law enforcement agency on or after September 1, 2009, and the claimant files the application for compensation within the period provided by this Act.

Establishment of the Capital Writs Committee and the Office of Capital Writs—S.B. 1091

by Senators Duncan and Ellis—House Sponsor: Representative Gallego

The Code of Criminal Procedure establishes the procedures for an application for a writ of habeas corpus in a death penalty case. Under this article, an applicant must be represented by competent counsel unless the applicant has elected to proceed pro se. Under current Texas law, attorneys in capital habeas cases are appointed by the district court from a statewide list of eligible lawyers maintained by the Texas Court of Criminal Appeals (court of criminal appeals). This bill:

Defines "committee" and "office of capital writs."

Creates the capital writs committee (committee).

Requires the committee to recommend to the court of criminal appeals a director (director) for the office of capital writs (office) when a vacancy exists for that position.

Sets forth the appointment and composition of the committee.

Provides that committee members serve at the pleasure of the president of the State Bar of Texas (president), and that the committee meets at the call of committee's presiding officer.

Requires the committee to recommend to the court of criminal appeals a director when a vacancy exists for that position and sets forth the recommendation procedure.

Sets forth the qualifications for the director.

Creates the office and sets forth funding for the office.

Requires the court of criminal appeals to appoint a director to direct and supervise the operation of the office, and sets forth the term and duties of such director.

Authorizes the court of criminal appeals to remove the director only for good cause.

Requires the director to employ attorneys and employ or retain licensed investigators and other personnel necessary to perform the duties of the office.

Sets forth the qualifications of the director and attorneys employed by the office.

Prohibits the office from accepting an appointment for a defendant under this Act if a conflict of interest exists, the office has insufficient resources to provide adequate representation for the defendant, the office is incapable of providing representation for the defendant in accordance with the rules of professional conduct, or other good cause is shown for not accepting the appointment.

Prohibits the office from representing a defendant in a federal habeas review unless certain criteria are met.

Authorizes the office to independently investigate the financial condition of any person the office is appointed to represent and requires the office to report the results of the investigation to the appointing judge.

Authorizes the judge to hold a hearing to determine if the person is indigent and entitled to representation under this Act.

Sets forth the compensation of an appointed attorney, other than an attorney employed by the office.

Requires the presiding judges of the administrative judicial regions (presiding judges) to maintain a statewide list of competent counsel available for appointment if the office does not accept or is prohibited from accepting an appointment.

Sets forth the qualifications of the attorneys on the list.

Requires a court:

- if a defendant desires appointment of counsel for the purpose of a writ of habeas corpus, to appoint the office to represent the defendant;
- at the earliest practical time, but in no event later than 30 days after the convicting court makes certain findings, to appoint the office, or, if the office does not accept or is prohibited from accepting an appointment, other competent counsel;
- if the office does not accept or is prohibited from accepting an appointment, to appoint counsel from a list of competent counsel maintained by the presiding judges; and
- to reasonably compensate an appointed attorney. An attorney who is employed by the office must be compensated in accordance with certain state statutes.

Requires the state to reimburse a county for compensation of counsel, other than for compensation of counsel employed by the office, and for payment of expenses, regardless of whether counsel is employed by the office. Provides that Section 3, Article 11.071 (Procedure in Death Penalty Case), Code of Criminal Procedure, applies to a counsel's investigation of the factual and legal grounds for the filing of an application for a writ of habeas corpus, regardless of whether counsel is employed by the office.

Authorizes an attorney employed by a public defender's office to be appointed with respect to an application for a writ of habeas corpus only if the attorney is on the list of competent counsel and an attorney employed by the office is not appointed in the case.

Authorizes funds from the fair defense account in the general revenue fund to be appropriated to the office for the purposes of this Act.

Requires the presiding judges, not later than January 1, 2010, to complete the statewide list of competent counsel available for appointment to represent defendants in applications for writs of habeas corpus.

Requires the governor to appoint the members of the committee not later than January 15, 2010.

Requires the committee, not later than May 15, 2010, to submit to court of criminal appeals the list of candidates for the position of the director.

Requires the court of criminal appeals, not later than September 1, 2010, to appoint the director.

Interstate Purchase of Firearms—S.B. 1188

by Senator Estes—House Sponsor: Representative Bonnen

Under current state law, a Texas resident may purchase firearms, ammunition, reloading components, or firearm accessories only in Texas and the contiguous states of New Mexico, Oklahoma, Arkansas, and Louisiana. This law was enacted at a time when federal law prohibited gun sales from noncontiguous states. Since then, federal law has been amended to allow for interstate firearm purchases, except those precluded by law. This bill:

Authorizes the interstate purchases of firearms, ammunition, reloading components, or firearm accessories in conformance with federal law.

Release of Inmates Who Complete Rehabilitation Programs—S.B. 1206 [VETOED]

by Senator Hinojosa—House Sponsor: Representative Edwards

Offenders who are required by the Texas Board of Pardons and Paroles (BPP) to complete a treatment program as a condition of release are assigned a program start date that determines when an offender should be enrolled in a program to satisfy the conditions of release. BPP's target release date is calculated from the estimated program start date based on the length of the particular program. Offenders sometimes complete the requirements for release earlier than the estimated target release date set by BPP but are not allowed to be released until they have met their target release date. This bill:

Requires the Texas Department of Criminal Justice (TDCJ), if a parole panel (panel) requires as a condition of release that an inmate complete a specific department rehabilitation program before release, to place the inmate in the program specified by the panel. Authorizes TDCJ to place the inmate in a different program with the panel's approval.

Authorizes a panel to release an inmate on parole during any applicable range of dates established under this Act, if the panel determines that the inmate's release will not increase the likelihood of harm to the public.

Requires a panel that requires an inmate to complete a specific rehabilitation program as a condition of release to specify a range of dates, based on the date the inmate is likely to have completed the program, during which TDCJ may release the inmate, if the inmate has successfully completed the program and satisfied all other conditions of release specified by the panel.

Provides that the range of dates specified by the panel may not begin earlier than the 45th day before any applicable release date established for the inmate and must be a range of at least 30 days.

Waiver of the Fee for Certain Expunctions—S.B. 1224

by Senator Huffman—House Sponsor: Representative Moody

Under current law, persons arrested for the commission of a felony or misdemeanor and later acquitted are entitled to have their criminal records expunged if certain conditions are met. Felonies are tried in district courts and misdemeanors are tried in county courts. A person charged with a felony in district court and then acquitted is permitted to seek an expunction in that court, and no filing fees or costs are assessed. A person accused of a misdemeanor in a county court is not permitted to seek an expunction in the trial court, but must file a petition for expunction in a district court, and must pay a filing fee and costs. This bill:

Waives the fees for expunction if the petitioner seeks expunction of a criminal record relating to an arrest for a certain offense of which the person was acquitted and the petition for expunction is filed not later than the 30th day after the date of the acquittal.

Admonishments Given to a Person Charged With a Misdemeanor—S.B. 1236

by Senator Seliger—House Sponsor: Representative Dukes

Section 42.0131 of the Code of Criminal Procedure requires the court to notify a person convicted of a misdemeanor involving family violence that it is unlawful for the person to possess or transfer a firearm or ammunition. This bill:

Requires a citation issued to a person include specific language, in boldfaced or underlined type or in capital letters, informing the person that if the person is convicted of a misdemeanor offense involving family violence that it may be unlawful for the person to possess or purchase a firearm or ammunition.

Requires a court, prior to accepting a plea of guilty or a plea of nolo contendere, to admonish the defendant using specific language that if the defendant is convicted of a misdemeanor involving family violence it may be unlawful for the defendant to possess or purchase a firearm or ammunition.

Authorizes the court to provide such admonishment orally or in writing, except that if the defendant is charged with a misdemeanor punishable by fine only, the statement printed on a citation issued under this Act may serve as the court admonishment.

Authority of Certain Juvenile Probation Officers to Carry Firearms—S.B. 1237

by Senator Estes — House Sponsor: Representative Heflin

Juvenile probation officers (JPOs) are not authorized to carry a firearm while performing official duties. Similar occupations in Texas are authorized to carry firearms. Twelve other states authorize or require JPOs to carry a firearm. In nine of those states, the decision is local. This bill:

Authorizes a JPO to carry a firearm in the course of the JPO's official duties if the JPO possesses a firearms proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education (TCLEOSE), the chief juvenile probation officer of the juvenile probation department (department) employing the JPO authorizes the JPO to carry a firearm in the course of the JPO's official duties, and the JPO has been employed for at least one year by the department.

Disqualifies a JPO from being authorized to carry a firearm if the JPO has been designated a perpetrator in a Texas Juvenile Probation Commission (TJPC) abuse, neglect, or exploitation investigation.

Exempts JPOs from provisions of the Penal Code concerning unlawful carrying of weapons.

Requires TCLEOSE and TJPC by rule to adopt a memorandum of understanding establishing a firearms training program for JPOs not later than January 1, 2010.

Sets forth what the program must provide.

Requires TCLEOSE to administer the training program and to issue a certificate of firearms proficiency to each JPO successfully completing the program.

Authorizes TCLEOSE to establish reasonable and necessary fees for the administration of this Act.

Provides that this Act does not affect the sovereign immunity of the state, a state agency, or a political subdivision.

Creating an Offense for Interference With Certain Radio Frequencies—S.B. 1273

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

The theft of emergency-use radio equipment directly interferes with emergency response and law enforcement efforts. This bill:

Makes it an offense for a person, without the effective consent of the law enforcement agency, fire department, or emergency medical services provider, to intentionally interrupt or otherwise interferes with a radio frequency that is licensed by the Federal Communications Commission to a government entity and is used by the law enforcement agency, fire department, or emergency medical services provider.

Provides that an offense under this Act is a Class A misdemeanor, except that the offense is a state jail felony if the actor committed the offense with the intent to facilitate the commission of another offense or to interfere with the ability of a law enforcement agency, a fire department, or an emergency medical services provider to respond to an emergency.

Defines "emergency," "emergency medical services provider," and "law enforcement agency."

Provides that if an offense under this Act also constitutes an offense under another law, the actor may be prosecuted under either law or under both laws.

Firearms Proficiency Officer and Weapons Proficiency—S.B. 1303

by Senator Seliger—House Sponsor: Representative Phil King

Current law requires a law enforcement agency that employs at least two peace officers to designate a firearms proficiency officer and requires each peace officer to demonstrate his or her firearms proficiency to that officer annually. There are currently 551 one-person departments whose officers are not required to be firearms proficient. This bill:

Requires a law enforcement agency that employs one or more peace officers, not later than March 1, 2010, to designate a firearms proficiency officer and to require each peace officer employed by the agency to demonstrate weapons proficiency at least annually.

Requires the agency to maintain records of the weapons proficiency of its officers.

Provides that for the purposes of this Act, any state or local governmental entity that employs one or more peace officers is a law enforcement agency.

Administration of the Compensation to Victims of Crime Fund—S.B. 1377

by Senators Harris and Seliger—House Sponsor: Representative Edwards

The Compensation to Victims of Crime Fund (CVCF) provides funding for the victims' compensation program administered by the Office of the Attorney General and for a variety of victims' services programs administered by multiple Texas state agencies. According to statute, CVCF must be used for compensation to crime victims before any of the fund may be appropriated for other victims' services programs. Only excess funds may be appropriated for other victims' services programs. There has been an increased demand for revenues in CVCF. This bill:

Requires the attorney general, not later than September 15 of each year, after consulting with the comptroller of public accounts, to certify the amount of money remaining in the compensation to victims of crime auxiliary fund (auxiliary fund) at the end of the preceding state fiscal year.

Authorizes the attorney general, if the amount remaining in such fund exceeds \$5 million, as soon as practicable after the date of certification, to transfer that excess amount in the crime auxiliary fund to CVCF in an amount that is not more than 50 percent of the excess amount in the auxiliary fund, to be used only for the purpose of making compensation payments during the fiscal year in which the amount is transferred.

Bars the attorney general from transferring such money before the 2011 state fiscal year.

Changes the formula for calculating the amount of excess money in the CVCF available for state agencies that deliver or fund victim-related services or assistance by multiplying the amount estimated to be obligated during the next state fiscal biennium by 105 percent, and subtracting that product from the sum of the amounts anticipated from certain deposits made to the credit of CVCF during the next state fiscal biennium and the amount of money in CVCF anticipated as unexpended at the end of the current state fiscal year and available for appropriation in the next state fiscal biennium.

Payment of Costs Associated With Certain Bond Conditions—S.B. 1506

by Senator Whitmire—House Sponsor: Representative Wayne Smith

As a condition of a pretrial bond, a defendant may be required to submit to electronic monitoring and testing for controlled substances, which carry costs for equipment and analysis. This bill:

Authorizes the cost of electronic monitoring or testing for controlled substances to be assessed as court costs or ordered paid directly by the defendant as a condition of bond.

Authorizes a magistrate to revoke the bond and order the defendant arrested if the defendant fails to pay such costs and the magistrate determines that the defendant is not indigent and is financially able to make the payments as ordered.

Identification of Defendants Who Have Mental Illness or Mental Retardation—S.B. 1557

by Senator Duncan—House Sponsor: Representative Gallego

Arrested individuals are screened for mental illness or mental retardation at the jails, but often the information is not provided to the appropriate magistrate for consideration during the individual's legal proceedings. This bill:

Requires a sheriff, not later than 72 hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with mental retardation, including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, to provide written or electronic notice of the information to the magistrate.

Requires a qualified mental health or mental retardation expert to collect information regarding whether the defendant has a mental illness or is a person with mental retardation, including information obtained from any previous assessment of the defendant, and to provide the magistrate with a written assessment of the information.

Provides that the magistrate is not required to order the collection of information under this Act if the defendant in the year the date of the defendant's arrest has been determined to have a mental illness or to be a person with mental retardation by a mental health or mental retardation expert.

Authorizes a magistrate, if the defendant fails or refuses to submit to the collection of information, to order the defendant to submit to an examination in a mental health facility.

Requires the written assessment to be provided to the magistrate within a certain time period.

Requires the magistrate to provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court, and sets forth what the written assessment must include.

Authorizes the trial court, after receiving the written assessment or electing to use the results of a previous determination, to take certain actions, including considering the written assessment during the punishment phase as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision.

Provides that this Act does not prevent the applicable court from taking certain actions before, during, or after the collection of information regarding the defendant.

Requires a magistrate to release a defendant on personal bond under certain conditions if the applicable expert in a written assessment submitted to the magistrate concludes that the defendant has a mental illness or is a person with mental retardation, is competent to stand trial, and recommends mental health treatment for the defendant.

Corroboration of Certain Testimony to Support a Criminal Conviction—S.B. 1681

by Senator Hinojosa—House Sponsor: Representative Gallego

At times the testimony of an informant who was in custody with a defendant may be used in a criminal trial. Incarcerated informants may have been offered a reduction in their own sentence, a plea deal in return for their testimony, or an improvement in their conditions of confinement as a reward for testifying. Current law requires that under the Texas Controlled Substances Act, the testimony of a person who is not a peace officer or who is an undercover peace officer be corroborated by evidence in seeking a conviction. This bill:

Prohibits a defendant from being convicted of an offense based on the testimony of a person to whom the defendant made a statement against the defendant's interest during a time when the person was imprisoned or confined in the same correctional facility as the defendant, unless the testimony is corroborated by other evidence connecting the defendant with the offense committed.

Defines "correctional facility."

Provides that corroboration is not sufficient for the purposes of this Act if the corroboration only shows that the offense was committed.

Disposal of Certain Exhibits Used in Criminal Proceedings in Certain Counties—S.B. 1774

by Senator Whitmire—House Sponsor: Representative Hernandez

Following presentation in the judicial process, exhibits often go unclaimed and remain in the possession of the county. The counties become responsible for the storage, maintenance, and disposal of the exhibits. Sometimes such exhibits may have value. This bill:

Authorizes a clerk to deliver certain exhibits to the county purchasing agent for disposal as surplus or salvage property.

Requires the county commissioners court to remit 50 percent of any proceeds of the disposal of an such exhibit, less the reasonable expense of storing and disposing of the exhibit to the county treasury, to be used only to defray the costs incurred by the district clerk of the county for the management, maintenance, or destruction of eligible exhibits in the county; and remit 50 percent of the proceeds to the state treasury to the credit of the compensation to victims of crime fund.

Eligibility for Community Supervision, Parole, or Mandatory Supervision—S.B. 1832

by Senator Dan Patrick—House Sponsor: Representative Zerwas

Under current law, a defendant adjudged guilty of certain offenses is ineligible to receive judge-ordered community supervision, parole, or mandatory supervision. Criminal solicitation is not included among those offenses. This bill:

Makes a defendant convicted of criminal solicitation of a capital offense ineligible for community supervision or mandatory supervision.

Provides that an inmate serving a sentence for such offense is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

Revenue from Pay Telephones Services in TDCJ Facilities—S.B. 1844

by Senator Van de Putte—House Sponsor: Representative Madden

The Texas Department of Criminal Justice (TDCJ) is authorized to enter into a contract with a vendor to provide coinless pay telephone services to eligible inmates. TDCJ will earn a commission from the pay phone services, and it was intended that 50 percent of that commission would be credited to the compensation to victims of crime fund (CVCF), with the remaining 50 percent to be credited to the undedicated portion of the general revenue fund. However, under current law, the money which would go to CVCF could go solely to general revenue. This bill:

Clarifies that 50 percent of all such commissions are to be transferred by TDCJ to CVCF.

Provision of Services to Wrongfully Imprisoned Persons—S.B. 1847

by Senator Hegar—House Sponsor: Representative Moody

Under current law, wrongfully imprisoned persons do not qualify for the services that parolees receive upon discharge. This bill:

Defines "wrongfully imprisoned person."

Requires the Texas Department of Criminal Justice (TDCJ) to ensure that the same programs and services available to inmates released on parole or to mandatory supervision are available to a wrongfully imprisoned person when the person is discharged from TDCJ.

Authorizes the TDCJ executive director to adopt rules as necessary to implement this Act and to direct the director of the Texas Correctional Office on Offenders with Medical or Mental Impairments to take any actions necessary to implement this Act.

Interception of Certain Communications in a Criminal Investigation—S.B. 2047

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

Article 18.20 (Interception and Use of Wire, Oral, or Electronic Communications), Code of Criminal Procedure, governs the interception of wire, oral, or electronic communications. The current electronic surveillance laws need to be revised to take into account advances in communication technology. This bill:

Removes from the definition of "wire communication" the electronic storage of a wire communication.

Removes from the definition of a "mobile tracking device" the exemption for a device designed, made, adapted, or capable of intercepting the content of a communication or functioning as a pen register, ESN reader, trap and trace device, or similar equipment.

Authorizes certain peace officers to require a provider of electronic communications service or a remote computing service to disclose the contents of an electronically stored wire communication, in addition to an electronic communication.

Authorizes a district judge to issue an order for the installation and use of a mobile tracking device in the same judicial district as the site of the investigation or the person, vehicle, container, item, or object which will be tracked by the mobile tracking device.

Firearm Smuggling Regulations—S.B. 2225

by Senators Carona and Shapleigh—House Sponsor: Representative Corte

Illegal gun trafficking from Texas into Mexico is a serious problem. As transnational gang activity along the border has rapidly increased, Texas and the United States have put pressure on Mexico to deal with the problem. However, Mexican drug cartels have transformed into well-equipped, well-organized, and technologically advanced armies. In 2007, half of the 14,111 firearms recovered in Mexico were traced back to Texas, originating from Houston and Dallas. Currently, there is no state statute prohibiting the large-scale smuggling of firearms out of Texas. This bill:

Provides that a person commits an offense if the person knowingly engages in the business of transporting or transferring a firearm that the person knows was acquired in violation of the laws of any state or of the United States.

Provides that a person is considered to engage in the business of transporting or transferring a firearm if the person engages in that conduct on more than one occasion or for profit or any other form of remuneration.

Makes it a third degree felony if a person knowingly engages in the business of transporting or transferring a firearm that the person knows was acquired in violation of the laws of any state or of the United States unless it is shown on the trial of the offense that the offense was committed with respect to three or more firearms in a single criminal episode, in which event the offense is a felony of the second degree.

Exempts a peace officer from the third degree felony offense of transporting or transferring a firearm if he or she is engaged in the actual discharge of an official duty.

Authorizes the actor, if conduct that constitutes the third degree felony offense also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

Provides that a person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more certain acts.

Expands the conduct that constitutes the offense of engaging in organized criminal activity to include the commission of or the conspiracy to commit certain offenses involving the unlawful transfer of a handgun or firearm smuggling and includes property that is used in relation to such an offense in the definition of "contraband," for purposes of forfeiture of contraband.

Electronic Monitoring of Certain Defendants as an Alternative to Confinement—S.B. 2340

by Senator Averitt—House Sponsor: Representative Homer

When managing the flow of offenders into and out of jail, Texas counties are responsible for ensuring public safety and minimizing the cost to taxpayers. Use of an electronic monitoring program (EMP) and work release programs can save county resources and reserve limited jail beds for the most dangerous offenders. This bill:

Authorizes a court to require a defendant to serve all or part of a sentence of confinement in county jail by participating in an EMP, if the EMP:

- is operated by a community supervision and corrections department that serves the county in which the court is located and has been approved by the community justice assistance division of the Texas Department of Criminal Justice; or
- is operated by the commissioners court of the county, or by a private vendor under contract with the commissioners court, if the defendant has not been placed on community supervision.

Provides that a defendant who submits to electronic monitoring or participates in the house arrest program discharges a sentence of confinement in the same manner as if the defendant were confined in county jail.

Authorizes court to revoke a defendant's participation in an EMP and require the defendant to serve the remainder of the defendant's sentence in county jail if the defendant violates a condition imposed by a court, including a requirement that the defendant pay for participating in the EMP.

Authorizes a court in a county that operates an EMP or contracts with a private vendor to operate an EMP to require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by participating in an EMP.

Removes the limit on the amount of time spent in a manual labor program that may be deducted from a defendant's sentence.

Authorizes a defendant convicted of a misdemeanor to volunteer to participate in any work program operated by a sheriff.

Authorizes a court or the sheriff, for each day of volunteer work, in addition to any other credits allowed by law, to deduct one day from each sentence imposed on the defendant in relation to the offense or violation of the terms of release for which the defendant was confined in county jail.

Provides that a defendant required to participate in a program under Section 44.041 (Conditions in Lieu of Bond), Code of Criminal Procedure, may receive credit toward completion of the defendant's sentence while participating in the program in the same manner and to the same extent as provided in other specified programs.

Authorizes a county commissioners court to establish and operate an EMP for the purpose of monitoring defendants required by a court of the county to participate in an EMP to discharge a fine or costs or as an alternative to serving all or part of a sentence of confinement in county jail.

Requires the commissioners court to provide for the sheriff or the community supervision and corrections department serving the county, under an agreement with the commissioners court, to oversee and operate the EMP, or, if the EMP is operated by a private vendor, oversee the operation of the EMP.

Authorizes a commissioners court to:

- contract with a private vendor to operate an EMP;
- use certain money that a defendant is ordered to pay to a county to pay for the services of the private vendor;
- subsidize all or part of the cost of a indigent defendant's participation in an EMP; and
- contract for any available electronic monitoring technology that meets the approval of the commissioners court and either the sheriff or the community supervision and corrections department, as appropriate.

Requiring a Sheriff to Report Certain Warrants or Capias to a National Database—S.B. 2438

by Senator Uresti—House Sponsor: Representative Moody et al.

A capias is a writ that is issued by a judge of the court having jurisdiction of a case after commitment or bail and before trial commanding any peace officer in Texas to arrest a person accused of an offense and bring the arrested person before that court immediately or on a day or at a term stated in the writ. This bill:

Requires a sheriff, within 30 days of the day the court clerk issues a warrant, to report to the national crime information center each warrant or capias issued for a defendant charged with an offense other than a Class C misdemeanor who fails to appear in court when summoned.

Procedures Regarding the Prosecution of Children for Public Intoxication—H.B. 558

by Representative Hernandez—Senate Sponsor: Senator Ellis

Currently, a child can be prosecuted in justice and municipal courts for purchasing, possessing, or consuming an alcoholic beverage or for operating a motor vehicle while having any detectable amount of alcohol in his or her system. However, children taken into custody for public intoxication are referred to the juvenile court system. Due to heavy juvenile dockets in many counties, many juveniles are never charged with public intoxication. Also, justice and municipal courts have the authority to employ juvenile case managers to assist the courts in juvenile cases and are able to require participation in alcohol and other rehabilitative programs. This bill:

Modifies existing law authorizing a peace officer or magistrate to release, rather than arrest, an individual who commits an offense of public intoxication to provide that these provisions do not apply to children.

Places an offense of public intoxication by a child under the jurisdiction of a justice or municipal court and authorizes the:

- release of the child to the child's parent, guardian, custodian, or other responsible adult, if the child is taken into custody for an offense; and
- presentation or detention of a child taken into custody in a detention facility.

Authorizes a law enforcement officer to issue a field release citation in place of taking a child into custody for public intoxication only if the officer releases the child to the child's parent, guardian, custodian, or other responsible adult.

Strikes a provision of the Family Code providing that public intoxication is conduct indicating a need for supervision.

Strikes public intoxication from Family Code provisions requiring a court to refer children charged with certain offenses to juvenile court or to notify the juvenile court of such charges.

Authorizes the prosecution or conviction of a person for the offense of public intoxication committed when the person was younger than 15 years of age.

Population and Operation of a Juvenile Justice Alternative Education Program—H.B. 1425

by Representative Lewis et al.—Senate Sponsor: Senator Seliger

Current law requires a county with a population of more than 125,000 to build and operate a juvenile justice alternative education program. This bill:

States that a county with a population greater than 125,000 is considered a county with a population of 125,000 or less if:

- the county had a population of 125,000 or less according to the 2000 federal census; and
- the county juvenile board (board), with the approval of the Texas Juvenile Probation Commission, enters into a memorandum of understanding with each county school district within the county outlining the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services and including statutorily required coordination procedures.

Requires a juvenile court that has placed a child on juvenile probation or deferred prosecution and required that the child attend a juvenile justice alternative education program in a county that is not required to operate a juvenile justice alternative education program under this Act to modify the conditions of probation or deferred prosecution if the county discontinues operation of the juvenile justice alternative education program.

Care of Foster Children Committed to or Released by TYC—H.B. 1629

by Representatives Naishtat and Madden—Senate Sponsor: Senator Uresti

The Texas Family Code currently does not address situations in which children are involved with both the Department of Family and Protective Services (DFPS) and the Texas Youth Commission (TYC). In 2007, approximately 200 youths who were in the legal custody of DFPS due to allegations of child abuse or neglect had been committed to TYC facilities due to delinquent behavior. There is a lack of coordination between DFPS and TYC in terms of the continuation of services for foster children who have been committed to a facility. This bill:

Provides that consent for medical, dental, psychological, and surgical treatment of a child for whom DFPS has been appointed managing conservator and who is committed to TYC is governed by certain provisions of the Family Code concerning children in foster care.

Authorizes a juvenile court conducting a disposition hearing involving a child for whom DFPS has been appointed managing conservator to communicate with the court having continuing jurisdiction over the child before the disposition hearing; and allow the parties to the suit affecting the parent-child relationship in which DFPS is a party to participate in the communication.

Authorizes a court to appoint a guardian ad litem or attorney ad litem for a child committed to TYC or released under supervision by TYC if an order appointing DFPS as managing conservator of the child does not continue the appointment of the child's guardian ad litem or attorney ad litem.

Expands the definition of "substitute care" to include commitment to TYC.

Requires a court in a suit affecting the parent-child relationship in which DFPS or an authorized agency has been appointed or designated as the temporary or permanent managing conservator of the child to hold a hearing for a child committed to TYC to review the child's commitment or release under supervision by TYC.

Authorizes a child committed to TYC to attend a permanency hearing or placement review in person, by telephone, or by videoconference.

Requires the permanency progress report and placement review, with respect to a child committed to TYC or released under supervision by TYC, to evaluate whether the child's needs for treatment and education are being met, describe the child's progress in any rehabilitation program administered by TYC, and recommend other plans or services to meet the child's needs.

Requires a court, at each permanency hearing and placement review hearing, if the child is committed to TYC or released under supervision by TYC, to determine whether the child's needs for treatment, rehabilitation, and education are being met.

Prohibits a court required to conduct placement review hearings for a child for whom DFPS has been appointed permanent managing conservator from dismissing a suit affecting the parent-child relationship filed by DFPS regarding the child while the child is committed to TYC or released under the supervision of TYC, unless the child is adopted or permanent managing conservatorship of the child is awarded to an individual other than DFPS.

Requires DFPS to expand the use of teleconferencing and videoconferencing to facilitate participation by children in court proceedings.

Requires TYC, if DFPS has been appointed managing conservator for a child, to disclose records and other information concerning the child to DFPS and ensure that DFPS is given the same rights as the child's parent.

Requires TYC, not later than the 10th day before the date of a permanency hearing or a placement review hearing under the Family Code regarding a child for whom DFPS has been appointed managing conservator, to submit a written report regarding the child's commitment TYC to DFPS and other specified persons or entities, and sets forth what the report must include.

Requires TYC and the executive commissioner of the Health and Human Services Commission, not later than April 30, 2010, to jointly adopt rules to ensure that a child for whom DFPS has been appointed managing conservator receives appropriate services while the child is committed to the TYC or released under supervision by TYC and sets forth what these rules must contain.

Prosecution and Punishment of Graffiti Offense—H.B. 1633

by Representative Walle et al.—Senate Sponsor: Senator Ellis

Currently, a juvenile convicted of a Class A misdemeanor or a Class B misdemeanor graffiti offense is required to restore the damaged property by removing or painting over any markings made. In addition to restoring the property, judges frequently require the juvenile to complete community service. This bill:

Requires a court to order the defendant convicted of a graffiti offense to make restitution by reimbursing the owner of the property for the cost of restoring the property or, with the owner's consent, personally restoring the property by removing or painting over the defendant's markings.

Requires a court to order a defendant convicted of marking public property, a street sign, or official traffic-control device to make restitution to a political subdivision by paying an amount equal to the lesser of the cost of replacement or restoration or, with the political subdivision's consent, restoring the property, by removing or painting over the defendant's markings.

Requires a court to direct a defendant ordered to make restitution as a condition of community supervision to deliver the restitution to the defendant's supervising officer for transfer to the owner.

Requires a parole panel to direct a defendant ordered to make restitution as a condition of parole or mandatory supervision to deliver the restitution to the defendant's supervising officer; and the supervising officer to notify the court when the defendant has delivered the full amount of restitution ordered.

Requires a court granting community supervision to a defendant to require as a condition of community supervision that the defendant perform:

- at least 15 hours of community service if the amount of pecuniary loss resulting from the commission of the offense is \$50 or more but less than \$500; or
- at least 30 hours of community service if the amount of pecuniary loss resulting from the commission of the offense is \$500 or more.

Requires a juvenile court placing a child adjudicated as having engaged in the offense of graffiti on probation to order:

- reimbursement of the owner or restoration of the property; and
- the child to perform at least 15 hours of community service if the amount of pecuniary loss resulting from the conduct is \$50 or more but less than \$500; or at least 30 hours of community service if the amount of pecuniary loss resulting from the conduct is \$500 or more.

Requires the juvenile court to direct a child ordered to make restitution to deliver the restitution to a juvenile probation department (department) for transfer to the owner; and the department to notify the juvenile court when the child has delivered the full amount of restitution ordered.

Modifies the provision making it a graffiti offense for a person, without the effective consent of the owner, to intentionally mark the owner's tangible property with aerosol paint by striking the word "aerosol."

Sealing Juvenile Records—H.B. 2386

by Representatives Castro and Gutierrez—Senate Sponsor: Senator Uresti

Under current law, certain juveniles may seek to have their records sealed by the juvenile courts, but must wait at least two years following the final action in the case, or in the case of felonies, until after age of 21. This bill:

Authorizes a juvenile court to order the sealing of records concerning a child adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision that violated a penal law of the grade of misdemeanor or felony if the child successfully completed a drug court program. The court may order the sealing of the records immediately and without a hearing, or hold a hearing to determine whether to seal the records.

Authorizes a prosecuting attorney or juvenile probation department, if the court orders the sealing of the records, to maintain until the child's 17th birthday a separate record of the child's name and date of birth and the date the child successfully completed the drug court program.

Requires the prosecuting attorney or juvenile probation department to send the record to the court after the child's 17th birthday to be added to the child's other sealed records.

Requires a court, if a child is found to be not guilty of each offense alleged, to order the sealing of all files and records relating to the case without any additional hearing.

Requires a court to hold a hearing before sealing a person's records if the person has been found to have engaged in delinquent conduct or conduct indicating a need for supervision or has been adjudicated as having engaged in delinquent felony conduct, unless the applicant waives the right to a hearing in writing and the court and the prosecuting attorney for the juvenile court consent.

Admissibility of Certain Hearsay Statements by a Child Abuse Victim—H.B. 2846

by Representative Riddle—Senate Sponsor: Senator Huffman

In criminal proceedings regarding certain offenses involving the sexual abuse of a child, Texas law authorizes the testimony of an outcry witness, who is the first adult the child informed about the alleged acts, to be used as evidence. This bill:

Increases the age of the child under the outcry law from 12 years of age or younger to younger than 14 years of age. Includes certain offenses under Section 15.01 (Criminal Attempt), Penal Code, in the offenses covered by the outcry law.

Provides that the law applies to a statement that was:

- offered during the punishment phase of the proceeding describing a crime or act, other than the alleged offense, that is covered by the outcry law, was allegedly committed by the defendant against the child who

is the victim of the offense or another child younger than 14 years of age, and is otherwise admissible as evidence under a state law or rule of evidence;

- made by the child against whom the charged offense or extraneous crime or act was allegedly committed; and
- made about the offense or extraneous crime, wrong, or act by the child to the first person, 18 years of age or older, other than the defendant.

Exposure of Juvenile Probation Department Employees to Certain Diseases—H.B. 3005

by Representative Coleman—Senate Sponsor: Senator Whitmire

Currently law authorizes individuals in certain professions at risk of contracting a reportable disease, including HIV infection, through involuntary contact, such as emergency medical service employees, to request that a local health authority or the Department of State Health Services order testing of the person who may have exposed them to such disease. This bill:

Authorizes an employee of a juvenile probation department to request such testing.

Venue for Certain Offenses Committed at Texas Youth Commission Facilities—H.B. 3316

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

Generally, local law enforcement authorities and district attorney offices prosecute an offense committed against a juvenile in the Texas Youth Commission (TYC) by TYC personnel or by a person providing contractual services for TYC. In 2007, the 80th Legislature established the Special Prosecution Unit (SPU) to augment TYC's ability to investigate and prosecute offenses against juveniles in its care. This bill:

Authorizes certain offenses committed by a TYC employee or officer or a person providing services under a contract with TYC against a child committed to TYC to be prosecuted in any county in which an element of the offense occurred or Travis County.

Authorizes a district attorney, criminal district attorney, or county attorney representing the state in criminal matters to request that SPU assist in the prosecution of the offense or conduct.

Continuity of Services for Youths With Mental Illness or Mental Retardation—H.B. 4451

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

Under current law, a child with mental retardation or mental illness who is committed to the Texas Youth Commission (TYC) may be discharged if the child has completed the minimum length of stay and TYC determines that the child is unable to progress through TYC's rehabilitation program because of the child's mental illness or mental retardation. The Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) is required to evaluate and provide continuity of care services to children with mental retardation or mental illness who are paroled from TYC. However, if a child's disability is so severe that the child cannot complete TYC's rehabilitation program, the child is discharged from TYC and is ineligible to receive continuity of care services from TCOOMMI because the child is not being released on parole.

Some children with mental illness who are paroled from TYC do not receive continuity of care services when they are 17 or older because they do not meet the criteria for adult services, and they are no longer eligible to receive continuity of care services from their local mental health or mental retardation authority under a local service area plan. This bill:

Provides that a child who is mentally ill or mentally retarded and is discharged from TYC under certain conditions is eligible to receive continuity of care services from TCOOMMI.

Authorizes TYC to petition the juvenile court that entered the order of commitment for a child for the initiation of mental health commitment proceedings if the child is committed to TYC under a determinate sentence under certain provisions of the Family Code.

Requires the juvenile court to proceed on the petition in accordance with the Family Code.

Requires TYC to cooperate with the juvenile court in such proceeding.

Requires the juvenile court to credit to the term of the child's commitment to TYC to any time the child is committed to an inpatient mental health facility.

Bars a child committed to an inpatient mental health facility as a result of a petition from release from the facility on a pass or furlough.

Requires the inpatient mental health facility, if the term of an order committing a child to an inpatient mental health facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered, to notify the juvenile court that entered the order of commitment committing the child to TYC.

Authorizes the juvenile court to transfer the child to the custody of TYC or to the Texas Department of Criminal Justice, or to release the child under supervision, as appropriate.

Authorizes a child with mental illness who is receiving continuity of care services during parole from TYC and who is no longer eligible to receive services from a local mental health authority when the child becomes 17 years of age because the child does not meet the requirements of a local service area plan to continue to receive continuity of care services from the TCOOMMI until the child completes the child's parole.

Authorizes a child with mental illness or mental retardation who is discharged from TYC under Section 61.077 Children with Mental Illness or Mental Retardation), Human Resources Code, to receive continuity of care services from TCOOMMI for a minimum of 90 days after discharge and for as long as necessary for the child to demonstrate sufficient stability to transition successfully to mental health or mental retardation services provided by a local mental health or mental retardation authority.

Punishment for a Capital Felony Committed by a Juvenile—S.B. 839

by Senator Hinojosa—House Sponsor: Representative McReynolds

Current law provides that the punishment for a capital felony conviction for which the state does not seek the death penalty is mandatory life without parole sentence. In 2004, the United States Supreme Court ruled that the death penalty could not be applied to juveniles. This means that under Texas law, a juvenile whose case was transferred from juvenile court to criminal court and who is convicted of a capital crime must be sentenced to life without parole. This bill:

Requires an individual adjudged guilty of a capital felony in a case in which the state does not seek the death penalty to be punished by imprisonment for life, if the individual's case was transferred to the court under the Family Code.

Provides that an inmate serving a life sentence for a capital felony is not eligible for release on parole until the actual calendar time the inmate has served, without consideration of good conduct time, equals 40 calendar years.

Affirmative Defense to Prosecution for Certain Sex Offenses—H.B. 549

by Representative Raymond—Senate Sponsor: Senator Zaffirini

Currently, it is not an affirmative defense to prosecution for an offense of indecency with a child, an offense of sexual assault of a child, an offense of engaging in an improper relationship between an educator and a student, or an offense relating to improper sexual activity with a person under the supervision of the Texas Department of Criminal Justice (TDCJ), the Texas Youth Commission (TYC), or a local juvenile probation department that the actor was the spouse of the child or person at the time of the offense. This bill:

Makes it an affirmative defense that the actor was the spouse of the child or person at the time of the offense to prosecution for indecency with or sexual assault of a child, an improper relationship between an educator and a student, or improper sexual activity with a person under the supervision of TDCJ, TYC, or a local juvenile probation department.

Assistance of the Texas Rangers in Investigating Certain Sex Offenses—H.B. 2130

by Representative Rios Ybarra—Senate Sponsor: Senator Van de Putte

Under current law, the duties of the Texas Rangers include making criminal and special investigations and rendering assistance to local law enforcement officials. This bill:

Authorizes the attorney representing the state to request that the Texas Rangers provide investigative, technical, and administrative assistance to a local law enforcement agency investigating an offense that is alleged to have been committed by an elected officer of the political subdivision served by the local law enforcement agency and would subject the elected officer to registration as a sex offender.

Certain Registration Requirements Imposed on Sex Offenders—H.B. 2153

by Representatives Edwards and Chris Turner—Senate Sponsor: Senator Shapiro

Current law requires individuals convicted of certain sexual offenses to register with their local law enforcement agencies, including providing information about the person's current address. However, some sex offenders may be homeless. This bill:

Authorizes an offense under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, to be prosecuted in the county in which the person required to register has indicated that the person intends to reside, regardless of whether the person establishes or attempts to establish residency in that county; or the county in which the person required to register resides or is found by a peace officer, regardless of how long the person has been in the county or intends to stay in the county.

Requires the registration form to require: the address at which the person resides or intends to reside or, if the person does not reside or intend to reside at a physical address, a detailed description of each geographical location at which the person resides or intends to reside.

Requires a person subject to registration who is released from a penal institution, not later than the seventh day after the date on which the person is released, to report to the applicable local law enforcement authority.

Requires a person subject to registration who is released from a penal institution without being released to parole or placed on any other form of supervision and who does not move to the address indicated on the registration form as the person's intended residence or does not indicate an address on the registration form, not later than the seventh day after the date on which the person is released to report in person to the local law enforcement authority for the

municipality or county, as applicable, in which the person is residing and provide that authority with the address at which the person is residing or, if the person's residence does not have a physical address, a detailed description of the geographical location of the person's residence; and until the person indicates the person's current address as the person's intended residence on the registration form or otherwise complies, as appropriate, continue to report to that authority not less than once in each succeeding 30-day period and provide that authority with the address at which the person is residing or, if applicable, a detailed description of the geographical location of the person's residence.

Prohibits a person required to register under this chapter from refusing or failing to provide any information required for the accurate completion of the registration form.

Requires the Texas Department of Criminal Justice or the Texas Youth Commission, before releasing the person, to obtain a detailed description of each geographical location where the person expects to reside on the person's release, if applicable.

Requires a person who is required to register and who resides for more than seven days at a location or locations to which a physical address has not been assigned by a governmental entity, not less than once in each 30-day period, to confirm the person's location or locations to the local law enforcement authority in the municipality where the person resides or, if the person does not reside in a municipality, the local law enforcement authority in the county in which the person resides; and to provide a detailed description of the applicable location or locations.

Punishment for the Offense of Prohibited Sexual Conduct—H.B. 2385

by Representative Castro—Senate Sponsor: Senator Van de Putte

Under current law, prohibited sexual conduct, commonly known as incest, is a third degree felony, except that when an actor engages in sexual intercourse or deviate sexual behavior with his or her cousin, the penalty is a second degree felony. This bill:

Makes an offense of prohibited sexual conduct a third degree felony, unless the offense is committed against the actor's ancestor or descendant by blood or adoption, in which event the offense is a second degree felony.

Exempting Certain Youth from Registering as a Sex Offender—H.B. 3148 [VETOED]

by Representative Todd Smith—Senate Sponsor: Senator West

The purpose of sex offender registration is to protect the public from dangerous sex offenders. Under current law, a person may be required to register as a sex offender for a consensual sexual act between a young adult and a willing underage participant. Currently, a judge must make an affirmative finding of fact in the trial of certain sexual offenses if the judge determines that at the time of the offense, the defendant was younger than 19 years of age and the victim was at least 13 years of age and that the conviction is based solely on the ages of the defendant and the victim. There have also been changes in state and federal sex offender registration laws. This bill:

Amends the provisions regarding the affirmative finding by a judge to require that the defendant be not more than four years older than the victim or intended victim and the victim or intended victim be at least 14 years of age.

Amends current law authorizing certain persons to petition the court having jurisdiction over the case for an order exempting the person from registration as a sex offender to include a person who is required to register as a result of a single reportable adjudication, other than an adjudication of delinquent conduct, for certain sexual offenses if the charge for the offense is based solely on the ages of the person and the victim or intended victim, the person was

younger than 21 years of age at the time the offense was committed, and before or on the date of the petition, the person received a dismissal and discharge from deferred adjudication community supervision.

Changes the eligibility date for certain defendants to petition the court from a conviction or placement on deferred adjudication community supervision before September 1, 2001, to September 1, 2009, provided that the defendant would have been entitled to the entry of an affirmative finding had the conviction or placement occurred after September 1, 2009.

Authorizes the court to issue an order exempting the person from registration if it appears by a preponderance of the evidence that the exemption is in the best interest of the victim or intended victim and is in the best interest of justice.

Requires the Department of Public Safety of the State of Texas (DPS), rather than the Council on Sex Offender Treatment, to by rule determine the minimum required registration period under the federal Adam Walsh Child Protection and Safety Act of 2006, rather than the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program.

Requires DPS, to the extent possible, to periodically verify with the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, rather than the Bureau of Justice Assistance, the accuracy of the list of reportable convictions or adjudications.

Denial of Bail for a Defendant Charged With Certain Offenses Against a Child—H.B. 3751

by Representatives Gallego and Moody—Senate Sponsor: Senators Shapiro and Uresti

Child sexual and physical abuse cases may take a substantial period of time to get to trial. During this delay, the alleged perpetrator may be released on bond. This bill:

Requires a magistrate, if a defendant is charged with certain sexual offenses against a child younger than 14 years of age, to require as a condition of bond for the defendant that the defendant not directly communicate with the alleged victim or go near a residence, school, or other location, as specifically described in the bond, frequented by the alleged victim.

Authorizes such defendant who violates a condition of bond and whose bail consequently revoked to be taken into custody and denied release on bail pending trial if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim or the community.

Authorizes a magistrate finding that a violation occurred to revoke the defendant's bond and order that the defendant be immediately returned to custody.

Provides that once a defendant is placed in custody, the revocation of the defendant's bond discharges any sureties on the bond from any future liability on the bond, but does not discharge any surety from liability for previous forfeitures on the bond.

Internet Use by Sex Offenders—S.B. 689

by Senator Shapiro—House Sponsor: Representative Pena et al.

Current law does not require convicted sex offenders to disclose any electronic identification information. This bill:

Authorizes the imposition of Internet restrictions under this Act only to a defendant who is required to register as a sex offender, is convicted of or receives a grant of deferred adjudication community supervision for certain sexual offenses, used the Internet to commit the offense or engage in the conduct for which the person is required to register, or is assigned a numeric risk level of three based on an assessment conducted under Article 62.007 (Risk Assessment Review Committee; Sex Offender Screening Tool), Code of Criminal Procedure.

Requires a court granting community supervision to such defendant, or the parole panel releasing on parole or to mandatory supervision such defendant, to prohibit the defendant from using the Internet to access material that is defined as obscene under the Penal Code, access a commercial social networking site, communicate with any individual concerning sexual relations with an individual who is younger than 17 years of age, or communicate with another individual the defendant knows is younger than 17 years of age.

Authorizes a court or the parole panel to modify a condition if the condition interferes with the defendant's ability to attend school or become or remain employed and consequently constitutes an undue hardship for the defendant, or the defendant is the parent or guardian of an individual who is younger than 17 years of age and the defendant is not otherwise prohibited from communicating with that individual.

Defines "online identifier" and "commercial social networking site" (site).

Excludes from public information on the sex offender database the home, work, or cellular telephone number, or online identifier of a person required to register as a sex offender.

Requires the Department of Public Safety of the State of Texas (DPS), for law enforcement purposes, to release all relevant information on the database, including information that is not public information, to a peace officer, an employee of a local law enforcement authority, or the attorney general on the request of the applicable person or entity.

Authorizes DPS, at the request of a site, to provide to the site with all public information that is contained in the database and any online identifier established or used by a person who uses the site, is seeking to use the site, or is precluded from using the site.

Requires DPS by rule to establish a procedure through which a site may request such information and to consult with the attorney general and other appropriate entities in adopting the rules.

Authorizes a site or the site's agent to use the information received only to prescreen persons seeking to use the site or preclude persons registered as sex offenders from using the site.

Imposes a civil penalty of \$1,000 on a site for each misuse of information or rule violation.

Requires a site that is assessed a civil penalty to pay in addition all court costs, investigative costs, and attorney's fees associated with the assessment of the penalty.

Requires the civil penalty to be deposited to the compensation to victims of crime fund.

Provides that this Act does not create a private cause of action against a site.

Requires the sex offender registration form to require each alias used by the person, any online identifier established or used by the person, and any home, work, or cellular telephone number of the person.

Bars local law enforcement authorities from providing the home, work, or cellular telephone number of a registered sex offender to the superintendent of the public school district and to the administrator of any private primary or secondary school located in that public school district.

Requires a person required to register to report any change in the person's online identifiers or the establishment of a new online identifier to the person's primary registration authority not later than the later of the seventh day after the change or establishment or the first date the applicable authority by policy allows the person to report.

Requires the primary registration authority receiving such information to forward information as required under statute.

Requires the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising a person subject to registration to promptly notify the appropriate local law enforcement authority or authorities of a change in the person's online identifier.

Requires DPS to implement the applicable provisions of this Act not later than January 1, 2010.

Centralized Sex Offender Registration Authority in Certain Counties—S.B. 2048

by Senator Williams—House Sponsor: Representative Riddle

Under current law, certain sex offenders in Texas are required to register with the chief of police in the municipality where the offender is living, or with the sheriff of the county where the offender is living. In large counties that contain many different municipalities, information on these offenders is spread across many small offices within the county. This bill:

Defines "local law enforcement authority" to include a centralized registration authority.

Defines "centralized registration authority" (authority).

Provides that the authority serves as the primary registration authority for a person required to register as a sex offender who resides, works, or attends school in a county with an authority.

Authorizes a commissioners court in a county with a population of 100,000 or more to designate the office of the sheriff of the county or, through interlocal agreement, designate the office of a chief of police of a municipality in that county, to serve as a mandatory countywide registration location for persons required to register as sex offenders.

Requires a person who is required to register as a sex offender to register or verify registration only with the authority for the county.

Requires the authority, if the person resides in a municipality and the local law enforcement authority in the municipality does not serve as the person's authority, to provide to the local law enforcement authority notice of the person's registration or verification of registration with the authority not later than the third day after the date the person registers or verifies registration.

Texas Secure and Fair Enforcement for Mortgage Licensing Act—H.B. 10

by Representative Solomons—Senate Sponsor: Senator Averitt

In August 2008, Congress adopted the Housing & Economic Recovery Act of 2008, which included the Secure and Fair Enforcement (S.A.F.E.) Mortgage Licensing Act. All states are required to adopt the provisions of the S.A.F.E. Mortgage Licensing Act to comply with federal law. If a state fails to comply, then the United States Department of Housing and Urban Development will preempt state laws. The S.A.F.E. Mortgage Licensing Act establishes a national mortgage origination registration system, which means that any individual who engages in mortgage lending must register and be licensed.

This legislation was drafted to comply with S.A.F.E., but also gives the Finance Commission of Texas and the Credit Union Commission rulemaking authority to comply with the changing regulatory environment should it affect the S.A.F.E. provisions. This bill:

Authorizes Chapter 180 (Residential Mortgage Loan Originators), Finance Code, to be cited as the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

Defines "clerical or support duties," "credit union," "credit union subsidiary organization," "depository institution," "dwelling," "federal banking agency," "finance commission," "immediate family member," "individual," "license," "loan processor or underwriter," "Nationwide Mortgage Licensing System and Registry," "nontraditional mortgage product," "person," "real estate brokerage activity," "registered mortgage loan originator," "regulatory official," "residential mortgage loan," "residential mortgage loan originator," "residential real estate," "rulemaking authority," "S.A.F.E. Mortgage Licensing Act," and "unique identifier."

Provides that certain persons are exempt from this chapter.

Provides that the banking commissioner of Texas, the savings and mortgage lending commissioner, the consumer credit commissioner, and the credit union commissioner have broad authority to administer, interpret, and enforce Chapter 180, as applicable.

Authorizes the Finance Commission of Texas (finance commission) to implement rules necessary to comply with this chapter as required to carry out the intentions of the S.A.F.E. Mortgage Licensing Act of 2008.

Prohibits an individual, unless exempted, from engaging in business as a residential mortgage loan originator with respect to a dwelling located in this state unless the individual is licensed to engage in that business under Chapter 156 (Mortgage Brokers), 157 (Registration of Mortgage Bankers), 342 (Consumer Loans), 347 (Manufactured Home Credit Transactions), 348 (Motor Vehicles Installment Sales), or 351 (Property Tax Lenders), Finance Code, and complies with the requirements of Chapter 180.

Prohibits a loan processor or underwriter who is an independent contractor, unless exempted, from engaging in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains the appropriate residential mortgage loan originator license and complies with the requirements of Chapter 180.

Requires a licensed residential mortgage loan originator to enroll with and maintain a valid unique identifier issued by the National Mortgage Licensing System and Registry (registry).

Requires a non-federally insured credit union that employs loan originators, as defined by the S.A.F.E. Mortgage Licensing Act, to register those employees with the registry by furnishing the information relating to the employees' identity set forth in Section 1507(a)(2) of the S.A.F.E. Mortgage Licensing Act.

Requires each independent contractor loan processor or underwriter licensed as a residential mortgage loan originator to have and maintain a valid unique identifier issued by the registry.

Requires the applicant, in connection with an application for a license as a residential mortgage loan originator, at a minimum, to furnish in the form and manner prescribed by the regulatory official and acceptable to the registry information concerning the applicant's identity, including fingerprints for submission to the Federal Bureau of Investigation (FBI) and any governmental agency or entity authorized to receive the information to conduct a state, national, and international criminal background check; and personal history and experience information in a form prescribed by the registry, including the submission of authorization for the registry and the appropriate regulatory official to obtain a certain report and certain information.

Authorizes a regulatory official to use the registry as a channeling agent for requesting information from and distributing information to the United States Department of Justice, any governmental agency, or any source at the regulatory official's direction.

Prohibits the regulatory official from issuing a residential mortgage loan originator license to an individual unless the regulatory official determines, at a minimum, that the applicant meets certain conditions.

Requires an applicant for a residential mortgage loan originator license to complete education courses that include, at a minimum, at least the minimum number of hours and type of courses required by the S.A.F.E. Mortgage Licensing Act and the minimum number of hours of training related to lending standards for the nontraditional mortgage product marketplace required by that Act.

Requires that an individual who has successfully completed prelicensing education requirements approved by the registry for another state be given credit toward completion of certain prelicensing education requirements.

Requires an applicant who has previously held a residential mortgage loan originator license that meets the requirements of this chapter and other appropriate regulatory law, before being issued a new original license, to demonstrate to the appropriate regulatory official that the applicant has completed all continuing education requirements for the calendar year in which the license was last held by the applicant.

Requires an applicant for a residential mortgage loan originator license to pass a qualified written test that meets the standards and requirements established by the S.A.F.E. Mortgage Licensing Act, is developed by the registry, and is administered by a test provider in accordance with the S.A.F.E. Mortgage Licensing Act.

Prohibits a regulatory official from issuing a residential mortgage loan originator license unless the official determines that the applicant meets the surety bond requirement or has paid a recovery fund fee, as applicable, in accordance with the requirements of the S.A.F.E. Mortgage Licensing Act.

Authorizes a license to act as a residential mortgage loan originator to be renewed on or before its expiration date if the license holder continues to meet the minimum requirements for license issuance, pays all required fees for the renewal of the license, and provides satisfactory evidence that the license holder has completed the continuing education requirements.

Requires a license holder, to renew a residential mortgage loan originator license, to annually complete the minimum number of hours and type of continuing education courses required by the S.A.F.E. Mortgage Licensing Act, the minimum requirements established by the registry, and any additional requirements established by the regulatory official.

Requires a person who successfully completes continuing education requirements approved by the registry for another state to be given credit toward completion of certain continuing education requirements.

Authorizes a rulemaking authority to adopt rules establishing requirements as necessary for: conducting background checks by obtaining criminal history information through fingerprint or other databases, civil administrative records, credit history information, or any other information considered necessary by the registry; payment of fees to apply for or renew licenses through the registry; setting or resetting, as necessary, license renewal dates or reporting periods; amending or surrendering a license or any other activity a regulatory official considers necessary for participation in the registry; and investigation and examination authority for purposes of investigating a violation or complaint arising under this chapter or for purposes of examining, reviewing, or investigating any license holder or individual subject to Chapter 180.

Provides that except as otherwise provided, a requirement under federal or state law regarding the privacy or confidentiality of information or material provided to the registry, and a privilege arising under federal or state law, or under the rules of a federal or state court, continue to apply to the information or material after the disclosure of the information or material to the registry.

Authorizes the information and material to be shared with federal and state regulatory officials with mortgage industry oversight authority without the loss of any privilege or confidentiality protections afforded by federal or state laws.

Provides that confidentiality provisions do not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a residential mortgage loan originator that is included in the registry for access by the public.

Requires a regulatory official, subject to the confidentiality provisions of this chapter, to report to the registry on a regular basis regarding violations of, enforcement actions under, or information relevant to this chapter or the S.A.F.E. Mortgage Licensing Act under the regulatory official's licensure, regulation, or examination of a licensed residential mortgage loan originator or person registered under the S.A.F.E. Mortgage Licensing Act.

Requires the applicable rulemaking authority by rule to establish a process by which licensed residential mortgage loan originators are authorized to dispute information submitted by the regulatory official to the registry.

Requires that the unique identifier of a person originating a residential mortgage loan be clearly shown on each residential mortgage loan application form, solicitation, or advertisement, including business cards and websites, and any other document required by rule of the rulemaking authority.

Prohibits an individual who is engaged exclusively in loan processor or underwriter activities from representing to the public, through the use of advertising, business cards, stationery, brochures, signs, rate lists, or other means, that the individual can or will perform any of the activities of a residential mortgage loan originator unless the individual is licensed as a residential mortgage loan originator.

Prohibits an individual or other person subject to regulation under Chapter 180 from:

- employing, directly or indirectly, a scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud a person;
- engaging in an unfair or deceptive practice toward a person;
- obtaining property by fraud or misrepresentation;
- soliciting or entering into a contract with a borrower that provides in substance that the individual or other person subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan was actually obtained for the borrower;
- soliciting, advertising, or entering into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;
- conducting any business regulated by this chapter without holding a license as required by this chapter;

- assisting, aiding, or abetting an individual in the conduct of business without a license required by this chapter;
- failing to make disclosures as required by this chapter and any other applicable state or federal law, including rules or regulations under applicable state or federal law;
- failing to comply with this chapter or rules adopted under this chapter;
- failing to comply with any other state or federal law, including rules or regulations adopted under that law, applicable to a business or activity regulated by this chapter;
- making, in any manner, a false or deceptive statement or representation;
- negligently making a false statement or knowingly or willfully making an omission of material fact in connection with information or a report filed with a governmental agency or the registry or an investigation conducted by the regulatory official or another governmental agency;
- making a payment, threat, or promise, directly or indirectly, to a person for purposes of influencing the person's independent judgment in connection with a residential mortgage loan, or make a payment, threat, or promise, directly or indirectly, to an appraiser of property, for purposes of influencing the appraiser's independent judgment with respect to the property's value;
- collecting, charging, attempting to collect or charge, or using or proposing an agreement purporting to collect or charge a fee prohibited by this chapter;
- causing or requiring a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or
- failing to truthfully account for money belonging to a party to a residential mortgage loan transaction.

Authorizes a regulatory official, to ensure the effective supervision and enforcement of Chapter 180, to:

- deny, suspend, revoke, condition, or decline to renew a license for a violation of this chapter, a rule adopted under this chapter, or an order or directive issued under this chapter;
- deny, suspend, revoke, condition, or decline to renew a license if an applicant or license holder fails to meet requirements or withholds information or makes a material misstatement in an application for a license or renewal of a license;
- order restitution against a person subject to regulation under this chapter for a violation;
- impose an administrative penalty on a person subject to regulation; or
- issue orders or directives as provided.

Authorizes a regulatory official to impose an administrative penalty on a residential mortgage loan originator or other person subject to regulation under this chapter, if the official, after notice and opportunity for hearing, determines that the residential mortgage loan originator or other person subject to regulation under this chapter has violated or failed to comply with Chapter 180, a rule adopted under that chapter, or an order issued under that chapter.

Sets forth requirements for establishing the administrative penalty amount.

Authorizes a regulatory official to order or direct a person subject to regulation under this chapter to cease and desist from conducting business.

Sets forth the duties of each regulatory official—the banking commissioner of Texas, the savings and mortgage lending commissioner, the consumer credit commissioner, and the credit union commissioner.

Authorizes a regulatory official to establish a relationship with or contract with the registry or an entity designated by the registry to collect and maintain records and process transaction fees or other fees related to licensed residential mortgage loan originators or other persons subject to regulation under this chapter.

Requires the finance commission by rule to set the fees for licensing and examination at amounts or rates necessary to recover costs.

Authorizes the credit union commission to adopt and enforce rules necessary for the credit union commissioner to examine, inspect, or investigate employees of credit union subsidiary organizations who are licensed to act as residential mortgage loan originators and enforce compliance by employees of credit union subsidiary organizations.

Prohibits an individual required to be licensed under this chapter from acting as a residential mortgage loan originator unless the individual's license under this chapter otherwise authorizes the individual to act as a residential mortgage loan originator, the individual is enrolled with the registry as required by Section 180.052, and the individual complies with other applicable requirements of Chapter 180 and rules adopted under that chapter.

Prohibits an employee of a credit union subsidiary organization from acting as a residential mortgage loan originator unless the employee is licensed, is enrolled with the registry as required, and complies with other applicable requirements of Chapter 180 and rules adopted under that chapter.

Requires a person, to be eligible to register as a registered financial services company, to supervise the mortgage origination activities of its exclusive agents.

Requires the registered financial services company, prior to permitting an exclusive agent to solicit, process, negotiate, or place a mortgage loan, to submit to the savings and mortgage lending commissioner such information relating to the exclusive agent, and requires the exclusive agent to have enrolled with the registry as a registered residential mortgage loan originator and provided to the savings and mortgage lending commissioner the exclusive agent's unique identifier.

Prohibits an employee of a mortgage banker from acting in the capacity of a residential mortgage loan originator unless the employee is licensed and enrolled with the registry and complies with other applicable requirements of Chapter 180 and rules adopted by the finance commission under that chapter.

Requires an employee of a mortgage banker, to be eligible to be licensed as a residential mortgage loan originator, to satisfy the savings and mortgage lending commissioner as to the employee's good moral character, including the employee's honesty, trustworthiness, and integrity; not be in violation of this chapter or a rule adopted under this chapter; and provide the regulatory official with satisfactory evidence that the employee meets the qualifications provided by Chapter 180.

Requires the consumer credit commissioner to establish, administer, and maintain a state-licensed residential mortgage loan originator recovery fund (fund).

Requires that the amounts received by the consumer credit commissioner for deposit in the fund be held by the consumer credit commissioner in trust for carrying out the purposes of the fund.

Sets forth required and authorized uses of the fund.

Authorizes amounts in the fund to be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and requires that the interest from those investments be deposited to the credit of the fund.

Requires an applicant for an original residential mortgage loan originator license or for renewal of a residential mortgage loan originator license, in addition to paying the original application fee or renewal fee, to pay a fee in an amount determined by the consumer credit commissioner and requires that the fee be deposited in the fund.

Requires that the amount of money in excess of that amount, if the balance remaining in the fund at the end of a calendar year is more than \$2.5 million, be available to the consumer credit commissioner to offset the expenses of participating in and sharing information with the registry.

Sets forth the statute of limitations on filing for recovery, procedures for recovery, and recovery limits for a residential mortgage loan applicant who is seeking to recover actual damages from the fund.

Authorizes the consumer credit commissioner to revoke a residential mortgage loan originator license on proof that the consumer credit commissioner has made a payment from the fund of any amount toward satisfaction of a claim against a state-licensed residential mortgage loan originator.

Authorizes the consumer credit commissioner to seek to collect from a state-licensed residential mortgage loan originator the amount paid from the fund on behalf of the originator and any costs associated with investigating and processing the claim against the fund or with collection of reimbursement for payments from the fund, plus interest at the current legal rate until the amount has been repaid in full.

Provides that when the consumer credit commissioner has paid an applicant an amount from the fund, the credit consumer commissioner is subrogated to all of the rights of the applicant to the extent of the amount paid.

Authorizes the finance commission to adopt rules on the consumer credit commissioner's recommendation to promote a fair and orderly administration of the fund.

Requires an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of a loan, an extension of credit, or a property tax loan for a principal dwelling, or as a residential mortgage loan originator in the sale of a motor vehicle to be used as a principal dwelling, unless exempt, to be individually licensed to engage in that activity, be enrolled with the registry, and comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

Authorizes the finance commission, for purposes of implementing an orderly and efficient process for licensing and registering residential mortgage loan originators that meets the requirements of S.A.F.E., as soon as practicable after the effective date of this Act, to adopt rules and establish interim procedures for licensing individuals engaging in or conducting the business of a residential mortgage loan originator in this state and for the approval or denial of applications for licenses authorizing individuals to engage in business as a residential mortgage loan originator.

Authorizes the finance commission, for individuals authorized by state law to engage in residential mortgage loan origination activities immediately before the effective date of this Act, to establish expedited review and licensing procedures.

Designation of Enterprise Projects During a Biennium—H.B. 271

by Representative Ortiz, Jr. et al.—Senate Sponsor: Senator Van de Putte

Texas Enterprise Zone programs allow local communities to partner with the state to promote job creation and investments in economically distressed areas of the state. Businesses that are designated as enterprise projects are eligible to apply for refunds of state sales taxes on qualified expenditures. This bill:

Provides that the maximum number of enterprise projects that a bank is authorized to designate for each nominating body during any biennium is six, if the nominating body is the governing body of a municipality or county with a population of less than 250,000, or nine, if the nominating body is the governing body of a municipality or county with a population of 250,000 or more.

Authorizes the Texas Economic Development and Tourism Office, during any biennium, to designate multiple concurrent enterprise projects to a qualified business located at a qualified business site, rather than in an enterprise zone.

Texas Enterprise Fund to Benefit Small Businesses—H.B. 394

by Representative Rose et al.—Senate Sponsor: Senator Van de Putte

The Texas Enterprise Fund (TEF) is used to attract new business to the state or to assist with the expansion of an existing business as part of competitive recruitment. TEF can be used for economic development projects that include infrastructure and community development, job training programs, and business incentives. However, there are currently no statutory requirements in place specifying how certain economic development incentives are awarded, although applicants are generally judged on job creation and wages, capital investments, financial strength, business history, and public/private sector support. More specifically, there is nothing in statute to encourage incentives to be directed to promote small business development. This bill:

Requires the governor, to encourage the development and location of small businesses in this state, to consider making grants from TEF to recipients that are small businesses in this state that commit to using the grants to create additional jobs, recipients that are small businesses from outside the state that commit to relocate to this state, or for individual projects that create 100 or fewer additional jobs.

Defines, for purposes of Section 481.078(k), Government Code, "small business" as a legal entity, including a corporation, partnership, or sole proprietorship that is formed for the purpose of making a profit, is independently owned and operated, and has fewer than 100 employees.

Licensing of Escrow Officers in Adjacent States—H.B. 652

by Representative Darby—Senate Sponsor: Senator Eltife

Title insurance escrow officers who are licensed by the Texas Department of Insurance (TDI), are required to be Texas residents. This requirement ensures that licensees do not operate from out-of-state locations. An individual wishing to work as an escrow officer in Texas is required to maintain a second legal residence in order to comply with current Texas law. However, there are instances where licensed title insurance escrow officers work at a bona fide licensed Texas title insurance agency but reside in an adjacent state. This bill:

Requires that the completed application for an escrow officer's license state that the proposed escrow officer is an individual who is a bona fide resident of this state or a state adjacent to this state and the proposed escrow officer is a bona fide employee of a title insurance agent or direct operation with an office in this state.

Authorizes a person qualified as an escrow officer to hold a license and operate as a notary public.

Provides that the amount of the bond or deposit required is determined by multiplying the number of escrow officers employed by the title insurance agent or direct operation by \$5,000 for an application of an individual who is a bona fide resident of this state or \$10,000 for an application of an individual who is a bona fide resident of a state adjacent to this state.

Prohibits the Texas Department of Insurance from denying an application for a license or disciplining an escrow officer solely because the individual resides in an adjacent state and acts as an escrow officer in this state as a bona fide employee of a title insurance agent or direct operation in this state.

Use of Tax Increment Fund Revenue for School District Contracts—H.B. 752

by Representative England—Senate Sponsor: Senator Harris

A municipality can enter into contracts with local school districts to dedicate revenue from a tax increment fund to the district for the acquisition, construction, or reconstruction of an educational facility if that municipality has a population smaller than 120,000. As a city's population grows, it can exceed this stated population limit of 120,000, and the city inadvertently ceases to qualify under that section of law to enter into contracts with local school districts to dedicate revenue from a tax increment fund to the school district for the acquisition, construction, or reconstruction of an educational facility. This bill:

Provides that Section 311.0085 (Power of Certain Municipalities), Tax Code, applies only to a municipality with a population of less than 130,000 as shown by the 2000 federal decennial census that has territory in three counties, rather than a municipality that has territory in three counties and a population of less than 120,000.

Extension of the Property Redevelopment and Tax Abatement Act—H.B. 773

by Representatives Oliveira and Gutierrez—Senate Sponsor: Senator Harris

Local governments use tax abatements to create new jobs by attracting industry and commercial enterprises and to encourage the retention and development of existing businesses. Over 2,000 tax abatement agreements have been executed by Texas local governments since 1997. These agreements are credited with creating or retaining more than 100,000 jobs between 1997 and 2007. Under current law, incorporated cities, counties, school districts, and special districts are authorized to enter into tax abatement agreements. In 1995, the Texas Legislature reauthorized local governments to continue using property tax abatements until September 1, 2001. In 2001, the legislature again reauthorized local governments to grant tax abatements through September 1, 2009. This bill:

Provides that, if not continued in effect, Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code, expires September 1, 2019, rather than 2009.

Television Equipment Recycling Program—H.B. 821 [VETOED]

by Representative Leibowitz et al.—Senate Sponsor: Senator Watson et al.

The purpose of this bill is to establish a comprehensive, convenient, and environmentally sound program for the collection and recycling of television equipment. Following the digital transition of June 2009, millions of old tube televisions are expected to be discarded as Texans buy new high definition televisions. Old tube televisions can contain several pounds of lead and toxic flame retardants. There is a significant risk of dangerous substances getting released into the environment if old televisions are not properly recycled. Several other states already require the recycling of televisions by manufacturers and Texas has a similar recycling program for computer equipment that requires manufacturers to accept computers back from consumers for recycling. This bill:

Establishes the Television Equipment Recycling Program (program) that applies only to covered television equipment that is offered for sale or sold to a consumer in this state or used by a consumer in this state and returned for recycling.

Does not apply to certain computer equipment; any part of a motor vehicle, including a replacement part; a device that is functionally or physically part of or connected to another system or piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including diagnostic monitoring or control equipment, or used for security, sensing, monitoring, antiterrorism, or emergency services purposes; a device that is contained in exercise equipment and intended for home use or an appliance intended for home use including a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave

oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, and air purifier; a telephone of any type; a personal digital assistant; a global positioning system; a consumer's lease of covered television equipment or a consumer's use of covered television equipment under a lease agreement; or the sale or lease of covered television equipment to an entity when the television manufacturer and the entity enter into a contract that effectively addresses the recycling of the equipment that has reached the end of its useful life.

Prohibits a person from offering for sale in this state new covered television equipment unless the equipment has been labeled in compliance with a television manufacturer's labeling requirement.

Authorizes a television manufacturer to sell or offer for sale in this state only covered television equipment that is labeled with the television manufacturer's brand.

Requires a manufacturer of covered television equipment to register with the Texas Commission on Environmental Quality (TCEQ) and pay a registration fee of \$2,500.

Requires that each television manufacturer of covered television equipment sold in this state, individually or as a member of a group of television manufacturers, submit to TCEQ a recovery plan to collect, transport, and recycle covered television equipment.

Requires a group of television manufactures that submits a recovery plan to collect, transport, and recycle covered television equipment.

Requires TCEQ to review the recovery plan for the satisfaction of the requirements of the program and authorizes TCEQ to reject the recovery plan if it does not meet all requirements.

Authorizes a retailer to order and sell only products from a television manufacturer that is included on the list that identifies manufacturers whose recovery plans have been approved by TCEQ.

Requires a person who is a retailer of covered television equipment to provide to consumers in writing the information published by TCEQ regarding the legal disposition and recycling of television equipment.

Requires a person who is engaged in the business of recycling covered television equipment in this state to register with TCEQ and certify that the person is in compliance with the adopted standards.

Authorizes TCEQ to impose a fee for registration in an amount necessary to recover the costs of registrations.

Provides that a television manufacturer, retailer, or person who recycles covered television equipment is not liable in any way for information in any form that a consumer leaves on covered television equipment that is collected or recycled.

Sets forth responsibilities of TCEQ and a consumer under the program and provisions for the enforcement of the program.

Requires TCEQ to compile information from manufacturers and issue an electronic report to the committee in each house of the legislature having primary jurisdiction over environmental matters not later than March 1 of each year and requires that the report include certain information.

Requires TCEQ to adopt standards for recycling of covered television equipment in this state the standards provided by "Electronics Recycling Operating Practices" as approved by the board of directors of the Institute of Scrap Recycling Industries, Inc., April 25, 2006, or other standards from a comparable nationally recognized organization.

Requires a person who submits a bid for a contract with a state agency for the purchase or lease of covered television equipment to be in compliance with provisions of the program.

Requires a state agency that purchases or leases covered television equipment to require a prospective bidder to certify the bidder's compliance before the agency is authorized to accept the prospective bidder's bid.

Requires the state, in considering bids for a contract for covered television equipment, in addition to any other preferences provided under other laws of this state, to give special preference to a manufacturer that through its recovery plan collects more than its market share allocation or provides collection sites or recycling events in any county located in a council of governments region in which there are fewer than six permanent collection sites open at least twice each month.

Authorizes TCEQ, if federal law establishes a national program for the collection and recycling of covered television equipment and TCEQ determines that the federal law substantially meets the purposes of this subchapter, to adopt an agency statement that interprets the federal law as preemptive of provisions in this bill.

Sets forth provisions for the amount of a penalty assessed against a manufacturer that does not label its computer equipment or covered television equipment or adopt and implement a recovery plan.

Authorizes TCEQ to adopt any rules required to implement the program.

Incentives for Media Production Industries—H.B. 873

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

During the 79th Legislature, Regular Session, 2005, the Texas Legislature established the Moving Image Industry Incentive Program (program). In the last decade, financial incentives have become a higher priority when production companies decide filming locations, and Texas lags behind other states in offering filming incentives. Texas' current maximum amount of a grant under the program is the lesser of five percent of a production company's in-state spending for a moving image project or a specified amount dependent on the type of moving image project produced. According to the Texas Film Commission, the moving image industry spent almost \$345 million in Texas in 2007, generating a total state economic impact of about \$522 million and supporting over 2,400 full-time jobs. This bill:

Redefines "moving image project" and "underutilized and economically distressed area."

Requires a production company, production crew, actors and extras, and the moving image project to meet certain conditions to qualify for a grant under this subchapter.

Prohibits a grant under this subchapter, except as provided by Section 485.025, from exceeding the amount established by the Music, Film, Television, and Multimedia Office (office) rule.

Requires the office to adopt rules prescribing the method the office will use to calculate the amount of a grant under this subsection and to publish a written summary of the method for determining grants before awarding a grant under this section and requires that the method consider at a minimum the current and likely future effect a project will have on employment, tourism, and economic activity in this state and the amount of a production company's in-state spending for a project.

Deletes existing text prohibiting a grant from exceeding the lesser of five percent of the total amount of a production company's in-state spending for a project or certain amounts per type of project.

Authorizes the office to make a grant only from appropriated funds.

Provides that if a production company spends at least 25 percent of a project's filming days in an underutilized and economically distressed area, rather than an underused area, the company is eligible for a grant, in addition to the grant calculated under Section 485.024, in an amount equal to 2.5 percent, rather than 1.25 percent, of the total amount of the production company's in-state spending for the project.

Business Opportunities for Former Foster Children—H.B. 1043

by Representative Orr et al.—Senate Sponsor: Senator Nelson

Each year hundreds of children "age out" of the foster care system. These children are more likely than other youth to be unemployed and become homeless. According to a 2003 Northwest Foster Care Alumni Study, 33 percent of foster care alumni have no health insurance or have incomes at or below the poverty level. This bill:

Entitles an individual who was under the permanent managing conservatorship of the Department of Family and Protective Services (DFPS) on the day preceding the individual's 18th birthday to a preference in employment with a state agency over other applicants for the same position who do not have a greater qualification.

Authorizes an individual entitled to an employment preference who is aggrieved by a decision of a state agency relating to hiring the individual, or relating to retaining the individual if the state agency reduces its workforce, to appeal the decision by filing a written complaint with the governing body of the state agency.

Provides that an economically disadvantaged individual is an individual who, for purposes of certain incentives under the Texas Enterprise Zone Act, was under the permanent managing conservatorship of DFPS on the day preceding the individual's 18th birthday.

Shipment of Wine—H.B. 1084

by Representative Truitt—Senate Sponsor: Senator Gallegos

Current law authorizes the holder of a winery permit or an out-of-state winery direct shipper's permit to deliver only three gallons of wine every 30 days to a consumer, which creates a de facto cap on wine shipments of 36 gallons of wine per year. Because the hot Texas weather creates challenges to delivering wine during certain times of the year, it is difficult for wine permit holders to exercise their ability to deliver the full amount of wine under the statute. Increasing from three to nine gallons the maximum amount of shipments to the same consumer within a month, while maintaining the limit of 36 gallons of wine shipments per year, would acknowledge the unique seasonal requirements of wineries as well as the realities of Texas summers. This bill:

Prohibits the holder of a winery permit or the holder of an out-of-state winery direct shipper's permit from delivering to the same consumer in this state more than nine gallons of wine within any calendar month or more than 36 gallons of wine within any 12-month period.

Tax Abatement Agreements for Dallas County Flood District Projects—H.B. 1134

by Representative England—Senate Sponsor: Senator West

The Dallas County Flood Control District No. 1 (district) is a conservation and reclamation district with tax abatement authority similar to that possessed by cities granted by H.B. 2049 (Shea; SP: Harris), 72nd Legislature, Regular Session, 1991. H.B. 2049 only permitted tax abatement agreements for a period of 10 years, while the district's bonds had a 30-year life period. Consequently, the 75th Legislature, Regular Session, 1997, through S.B. 1450 (Nelson; SP: Allen), permitted tax abatement agreements to extend for a 30-year period.

Both H.B. 2049 and S.B. 1450 granted tax abatement authority for commercial-industrial projects, but residential projects were not anticipated. In order to accommodate possible projects, the district requested that it be authorized to enter into tax abatement agreements for residential projects. This bill:

Authorizes the district to enter into a tax abatement agreement and designate an area as a reinvestment zone on a finding by the board of directors that the proposed commercial-industrial or residential project or projects meet the criteria prescribed by Section 16D of this Act.

Requires that a resolution describe the boundaries of the zone and the eligibility of the zone for commercial-industrial or residential tax abatement.

Assessment of Charges by Certain Commercial Landlords—H.B. 1382

by Representative Yvonne Davis—Senate Sponsor: Senator Harris

Current law prohibits a landlord from assessing a charge, other than a charge for rent or physical damage to the leased premises, to a tenant unless the amount of the charge or the method by which the charge is to be computed is stated in the lease or in an exhibit, attachment, or amendment to the lease. It is unclear whether a governmental landlord such as an airport authority, which is required by federal grant assurances to charge rates that cover all of its operating costs, may impose on its tenants a contractual duty to pay a proportionate share of whatever those operating costs may be from year to year. This bill:

Provides that Section 93.012 (Assessment of Charges), Property Code, does not affect the contractual right of a landlord that is a governmental entity created under Subchapter D (Joint Operations), Chapter 22 (County and Municipal Airports), Transportation Code, whose constituent municipalities are populous home-rule municipalities, to assess charges under a lease to fully compensate the governmental entity for the governmental entity's operating costs.

Promotion and Advertising of Alcoholic Beverages in Certain Facilities—H.B. 1505

by Representatives Ortiz and Guillen—Senate Sponsor: Senator Hinojosa

Certain provisions of the Alcoholic Beverage Code that are intended to prevent subterfuge ownership of or unlawful use of an alcoholic beverage license or permit, or the premises covered by such a license or permit, impose restrictions on the eligibility of a person or corporation to receive such license or permit and consequently hinder the ability of a city or county to negotiate for a larger percentage of revenues from alcohol sales concessions at such publicly owned and publicly financed facilities than the percentage allowed under current law. This bill:

Provides that Section 108.75 (Advertising and Promotion in Public Entertainment Facility), Alcoholic Beverage Code, does not restrict or govern the promotion, sponsorship, or advertising of an entertainment event, or the promotion or advertising of an alcoholic beverage brand or product, at a facility owned by a municipality or county that is financed with public securities, the interest on which is exempt from federal income taxation.

Provides that financial arrangements, including profit sharing, between a concessionaire operating at a facility and a person operating the concession facilities under a contract with the license or permit holder or the municipality or county do not constitute and are not evidence of subterfuge ownership prohibited by Section 109.53 (Citizenship of Permittee; Control of Premises; Subterfuge Ownership; Etc.), Alcoholic Beverage Code.

Construction Contract Trust Funds—H.B. 1513

by Representative Wayne Smith—Senate Sponsor: Senator Mike Jackson

Under the Texas Construction Trust Fund Act, construction payments are considered to be trust funds if the payments are made to a contractor or subcontractor or to an officer, director, or agent of a contractor or subcontractor, under a construction contract for the improvement of specific real property. The contractor is the trustee of the funds, and a subcontractor who provides labor or material for a specific improvement is a beneficiary of the trust fund. However, bankruptcy on a construction project can defeat the protections provided by the Texas Construction Trust Fund Act. This bill:

Provides that a fee payable to a contractor is not considered trust funds if the contractor and property owner have entered into a written construction contract for the improvement of specific real property in this state before the commencement of construction of the improvement and the contract provides for the payment by the owner of the costs of construction and a reasonable fee specified in the contract payable to the contractor; and the fee is earned as provided by the contract and paid to the contractor or disbursed from a construction account, if applicable.

Provides that trust funds paid to a creditor are not property or an interest in property of a debtor who is a trustee.

Provides that a property owner is a beneficiary of trust funds in connection with a residential construction contract, including funds deposited into a construction account.

Provides that regardless of whether a construction contract is covered by a statutory or common law payment bond, Chapter 162 (Construction Payments, Loan Receipts, and Misapplication of Trust Funds), Property Code, applies to a public or private construction contract for the improvement of specific real property in this state.

Provides that a trustee who commingles trust funds with other funds in the trustee's possession does not defeat a trust created by Chapter 162.

Hours Under the Shared Work Unemployment Compensation Program—H.B. 1637

by Representative Turner et al.—Senate Sponsor: Senator Ellis

The shared work unemployment compensation program creates an alternative option by providing proportionate unemployment compensation for a temporary reduction in work hours, rather than permanent job loss. Current benefits provided by the shared work unemployment compensation program are based on a 40-hour work week. However, many businesses and their employees, particularly those in the manufacturing industry, do not work a 40-hour week. In the case of manufacturing facilities, employees work compressed schedules to maintain operations on a 24-hour, seven-days-a-week basis. As a result, employees on each shift work three days one week and four days the next. For these businesses, the average of a two-week paycheck period is 40 hours per week if the period is broken down to an individual week showing 33.48 hours worked the first week and 44.64 hours worked the second week. This bill:

Redefines "normal weekly hours of work" to mean the number of hours in a week that an employee ordinarily works for a participating employer or an average of 40 hours per week over a two-week pay period, whichever is less.

Tax Increment Financing for Noncontiguous Areas of Counties and Cities—H.B. 1770

by Representative Miklos—Senate Sponsor: Senator Wentworth

Tax increment financing is a tool that municipal governments can use to publicly finance needed structural improvements and enhanced infrastructure within a defined area. These improvements usually are undertaken to

promote the viability of existing businesses and to attract new commercial enterprises to the area. The cost of improvements to the area is repaid by the contribution of future tax revenues by each taxing unit that levies taxes against the property.

Currently, counties and cities can only designate a contiguous geographic area as a reinvestment zone, and the statute is unclear in regard to a municipality's authority to establish a zone that covers an area in its extraterritorial jurisdiction. As such, there are concerns over future annexation of taxable real property in the designated area.

By allowing noncontiguous areas of counties and cities, as well as areas in the extraterritorial jurisdiction of cities, to be designated as a reinvestment zone, counties and cities would have greater flexibility and discretion in bringing economic development to their communities. This bill:

Authorizes the governing body of a county by order to designate a contiguous geographic area in the county and authorizes the governing body of a municipality by ordinance to designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.

Provides that the designation of an area that is wholly or partly located in the extraterritorial jurisdiction of a municipality is not affected by a subsequent annexation of real property in the reinvestment zone by the municipality.

Prohibits a municipality from creating a reinvestment zone if the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds certain percentages.

Provides that the amount of a taxing unit's tax increment for a year is the amount of property taxes levied and assessed by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone or the amount of property taxes levied and collected by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone.

Requires the governing body of a taxing unit to determine which of the methods specified by this subsection is used to calculate the amount of the unit's tax increment.

Requires a taxing unit to make a required payment not later than the 90th day after the delinquency date for the unit's property taxes, notwithstanding any termination of the reinvestment zone.

Provides that a taxing unit is not required to pay into a tax increment fund the applicable portion of a tax increment attributable to delinquent taxes until those taxes are collected.

Provides that a reinvestment zone terminates on the earlier of certain dates, including the termination date designated in the ordinance or order, as applicable, creating the zone or an earlier or later termination date designated by an ordinance or order adopted subsequent to the ordinance or order creating the zone.

Provides that a taxing unit that taxes real property located in the reinvestment zone, other than the municipality or county that created the zone, is not required to pay any of its tax increment into the tax increment fund for the zone after the termination date designated in the ordinance or order creating the zone unless the governing body of the taxing unit enters into an agreement to do so with the governing body of the municipality or county that created the zone, notwithstanding the designation of a later termination date.

Designation of Certain Registered Agents—H.B. 1787

by Representatives Solomons and Shelton—Senate Sponsor: Senator Wentworth

Under the Business Organizations Code, certain business entities are required to file a certificate of formation with the secretary of state and designate and continuously maintain an individual or organization as a registered agent to be served any process, notice, or demand served on the entity.

Occasionally, an individual or organization is designated as a registered agent without the individual's or organization's knowledge or consent. The liability of a person or organization that does not consent to such designation when named as a party in a process, notice, or demand is unclear, as is the liability of a registered agent that did not consent to serve. This bill:

Defines "registered agent filing," "represented domestic entity," "represented entity," and "represented foreign entity."

Authorizes the registered agent to be an individual who is a resident of this state and has consented in a written or electronic form to be developed by the Office of the Secretary of State (SOS) to serve as the registered agent of the entity, or an organization, other than the filing entity or foreign filing entity to be represented, that is registered or authorized to do business in this state, and has consented in a written or electronic form to be developed by SOS to serve as the registered agent of the entity and requires the registered agent to maintain a business office at the same address as the entity's registered office.

Provides that the designation or appointment of a person as registered agent by an organizer or managerial official of an entity in a registered agent filing is an affirmation by the organizer or managerial official that the person named as registered agent has consented to serve in that capacity.

Provides that if a person designated or appointed as registered agent in a registered agent filing before the sale, acquisition, or transfer of a majority-in-interest or majority interest of the outstanding ownership or membership interests of the represented entity continues to serve in that capacity after the sale, acquisition, or transfer, the person's continuation of service is an affirmation by the governing authority of the represented entity that the governing authority has verified that the person named as registered agent has consented to continue to serve in that capacity.

Authorizes a person designated or appointed as an entity's registered agent in a registered agent filing without the person's consent to terminate the person's appointment or designation as registered agent by filing a statement of rejection of appointment with the filing officer.

Requires the secretary of state, on termination of the designation or appointment of a registered agent and the designation of the registered office, to send notice to the represented entity of the necessity to designate or appoint a new registered agent and registered office.

Prohibits the filing officer from charging a fee for the filing of a statement of rejection of appointment.

Sets forth the duties of a registered agent and provides that a person named as the registered agent for a represented entity in a registered agent filing without the person's consent is not required to perform those duties.

Provides that Sections 4.007 (Liability for False Filing Instruments) and 4.008 (Offense; Penalty), Business Organizations Code, apply with respect to a false statement in a registered agent filing that names a person the registered agent of a represented entity without the person's consent.

Provides that a person designated or appointed as the registered agent of a represented entity is not liable solely because of the person's designation or appointment as registered agent for the debts, liabilities, or obligations of the represented entity.

Prohibits a person who has been designated or appointed as a registered agent in a registered agent filing but has not consented to serve as the represented entity's registered agent from being held liable under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the represented entity, whether arising in contract, tort, or otherwise, solely because of the person's designation or appointment as registered agent, or to the represented entity or to a person who reasonably relied on the unauthorized designation or appointment solely because of the person's failure or refusal to perform the duties of a registered agent.

Hotel Tax Revenue for Sports and Multiuse Facilities—H.B. 1789

by Representative Maldonado et al.—Senate Sponsor: Senator Ogden

In 2004, the Taylor City Council began to plan the building of a sports complex for the citizens of eastern Williamson County. Since that time, the concept has grown to a regional sporting venue, not only to address the sporting needs of the region but also to serve as an economic development catalyst for the City of Taylor. H.B. 1789 allows a city with a certain population and that meets certain criteria to use the hotel occupancy tax to expand or improve existing park facilities or for constructing multiuse facilities. This bill:

Authorizes revenue from the municipal hotel occupancy tax to be used only to promote tourism and the convention and hotel industry, and limits that use to certain activities if the municipality meets certain criteria, including that the municipality has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000; has a population of at least 65,000 but less than 80,000 and no part of which is located in a county with a population greater than 150,000; or is located in a county that is adjacent to the Texas-Mexico border, has a population of at least 500,000, and does not have a municipality with a population greater than 500,000.

Authorizes revenue from the municipal hotel occupancy tax to be used, among other activities, for a municipality with a population of at least 65,000 but less than 80,000, no part of which is located in a county with a population greater than 150,000, for the construction, for the improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility.

Distilled Spirit Sampling—H.B. 1974

by Representative Hamilton—Senate Sponsor: Senator Fraser

Currently there are nine distilleries in Texas using native products such as corn, wheat, peaches, and grapes to make distilled spirits. Under current law, a person who enters one of these distilleries is not allowed to sample the product. Texas wineries are authorized to offer samplings of their products, and many distilleries believe it would be beneficial to their growing businesses to be able to serve visitors samples of their products. This bill:

Authorizes the holder of a distiller's and rectifier's permit to bottle, label, and package the permit holder's finished products and dispense free distilled spirits for consumption on the permitted premises.

Authorizes the holder of a distiller's and rectifier's permit to conduct distilled spirits samplings on the permitted premises.

Sets forth restrictions for distilled spirits sampling, including prohibiting a sampling event from being advertised except by on-site communication or by direct mail; a person other than the holder of a permit or the holder's agent or

employee from dispensing or participating in the dispensing of distilled spirits; a person authorized to dispense distilled spirits from serving a person more than one sample of each brand of distilled spirits being served at a sampling event, or serving a sample to a minor or to an obviously intoxicated person; sample portions from exceeding one-half ounce; and a person who receives a sample from removing the sample from the permitted premises.

Use of Hotel Tax by Municipalities for Sports and Community Venues—H.B. 2032

by Representative England—Senate Sponsor: Senators Harris and Zaffirini

Under current law, certain cities qualify to use Chapter 334 (Sports and Community Venues), Local Government Code, to finance the development of convention and meeting space on certain park land. However, the law as written applies only to a municipality that has a population of less than 120,000. As a city's population grows, it can exceed the population limitation and inadvertently cease qualifying under certain law. H.B. 2032 would ensure that certain municipalities will be able to continue to use the hotel occupancy tax for the support of the local convention center should its population change in future censuses. This bill:

Applies only to a municipality that has a population of at least 176,000, that borders the Rio Grande, and that approved a sports and community venue project before January 1, 2009; or is located in a county adjacent to the Texas-Mexico border if the county has a population of at least 500,000, the county does not have a city located within it that has a population of at least 500,000, and the municipality is the largest municipality in the county described by this subdivision.

Authorizes a municipality to which this section applies, notwithstanding any other law, to hold an election on the question of approving and implementing a resolution to authorize the municipality to plan, acquire, establish, develop, construct, or renovate a convention center and related infrastructure in the city limits of the municipality as part of an existing or previously approved sports and community venue project, impose a tax under Subchapter H (Hotel Occupancy Taxes) at a rate not to exceed two percent of the cost of a room; and authorize the municipality to finance, operate, and maintain the venue project, including the convention center, using the revenue from any taxes imposed by the municipality under this chapter, including taxes previously approved in relation to the existing or previously approved venue project.

Applies only to a municipality that has a population of less than 130,000 as shown by the 2000 federal decennial census, rather than a population of less than 120,000, and meets certain other requirements.

Redefines "eligible central municipality" to mean a municipality with a population of more than 140,000, but less than 1.5 million that is located in a county with a population of one million or more and that has adopted a capital improvement plan for the expansion of an existing convention center facility.

Requires that bonds issued under this subchapter be secured by a pledge of and be payable from all or a designated part of the revenue from the facility for which the bonds are issued or from additional sources made available by the municipality for that purpose, as provided in the ordinance authorizing or approving the issuance of bonds.

Regulation of the Sale of Plastic Bulk Merchandise Containers—H.B. 2127

by Representative Giddings—Senate Sponsor: Senator West

In 2007, the 80th Texas Legislature, Regular Session, enacted H.B. 1871 to address the fact that there was no law regulating the resale of plastic bulk merchandise containers to a person or business that recycles, shreds, or destroys these types of containers. H.B. 1871 also required a person in the business of recycling these containers to

obtain proof of ownership from an individual who attempts to recycle five or more of the containers. The theft of plastic bulk merchandise continues to rise and is very costly. This bill:

Requires a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers, before purchasing 10 or more plastic bulk merchandise containers from an individual at one time, to obtain from the individual proof of ownership for the containers and a record that contains certain information and to verify the identity of the individual selling the containers or representing the seller from a certain document.

Provides that a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers who violates certain requirements commits a Class C misdemeanor punishable by a fine not to exceed \$350, if the total purchase price of the plastic bulk merchandise containers to which the offense relates is less than \$1,000 or a fine not to exceed \$700, if the total purchase price of the plastic bulk merchandise containers to which the offense relates is \$1,000 or more.

Provides that if it is shown on the trial of an offense that the defendant has been previously convicted of the same offense based on the same type of violation, the subsequent offense is punishable by a fine not to exceed twice the maximum amount of the fine prescribed for a first offense.

Regulation Relating to the Sale of Plastic Bulk Merchandise Containers—H.B. 2128

by Representative Giddings—Senate Sponsor: Senator West

H.B. 1871, 80th Legislature, Regular Session, 2007, required a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers to obtain from the seller proof of ownership for the containers and a record identifying the seller's information. H.B. 1871 made a person who violates this provision liable to the state for a civil penalty. However, many business and law enforcement authorities have expressed concern about the lack of prosecuting authority to pursue these crimes. This bill:

Authorizes the attorney general or appropriate prosecuting attorney to investigate an alleged violation of Section 35.63 (Sale of Plastic Bulk Merchandise Container) and Chapter 204 (Sale of Plastic Bulk Merchandise Container), Business and Commerce Code, and to sue to collect a civil penalty.

Authorizes the attorney general or appropriate prosecuting attorney to recover reasonable expenses, including court costs, attorney's fees, investigative costs, witness fees, and deposition expenses, incurred in recovering a civil penalty.

Skills Development Fund for Prospective Employers—H.B. 2169

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

The Texas Workforce Commission (TWC) operates the skills development fund, which is used to assist employers and employees by funding job training projects. The skills development fund may be used by public community and technical colleges, community-based organizations, and the Texas Engineering Extension Service as start-up or emergency funds for job-training purposes. However, TWC will not commit training funds to prospective new employers, which puts Texas at a competitive disadvantage compared to other states. Distributing the funds to prospective new employers for the purpose of hiring more workers would help create an advantage for economic growth in attracting new businesses to Texas. This bill:

Authorizes TWC by rule to establish and develop additional job incentive programs that use the skills development fund to create incentives for public community and technical colleges in partnership with one or more employers,

including prospective employers who commit to establishing a place of business in this state, to provide workforce training in an effort to create and retain employment opportunities in this state.

Authorizes TWC, under a program established under this subsection, to commit money to a prospective employer contingent on the employer's establishment of a place of business in this state.

Possession of Certain Alcoholic Beverages for Cooking Purposes—H.B. 2237

by Representative Hamilton—Senate Sponsor: Senator Watson

The Alcoholic Beverage Code currently restricts the alcoholic beverages that a wine and beer retailer's permittee may have on the premises to those with less than 17 percent alcohol by volume. Current law also restricts the alcoholic beverages that a mixed beverage permittee may have on the premises to those that are covered by an invoice from a local distributor. In a restaurant environment, various types of wines and liquors are used for cooking that may exceed 17 percent alcohol by volume or may not be available from a local distributor. This bill:

Authorizes the Texas Alcoholic Beverage Commission (TABC) by rule to allow a wine and beer retailer's permittee or the permittee's officer to possess and use alcoholic beverages in excess of 17 percent by volume on the licensed premises for cooking purposes.

Authorizes TABC by rule to allow the holder of a mixed beverage permit or an officer, agent, or employee of the permit holder to possess and use alcoholic beverages that are not covered by an invoice on the permitted premises for cooking purposes.

Preference for Texas Production Companies for State Advertising—H.B. 2521

by Representatives Pickett and Solomons—Senate Sponsor: Senator West

H.B. 2521 requires that state agencies show a preference for Texas-based production companies and advertisement agencies in the creation of their advertising. H.B. 2521 was supported by the Texas Motion Picture Alliance, which encourages retaining existing jobs and bringing new jobs to the Texas film industry. This bill:

Requires the comptroller of public accounts and each state agency conducting an advertising campaign that involves the creation or production of a commercial to give preference to a commercial production company and advertising agency located in this state if the services meet state requirements regarding the service to be performed and regarding expected quality, and the cost of the service does not exceed the cost of other similar services of similar expected quality that are offered by a bidder that is not entitled to a preference under this subsection.

Defines "commercial production company" as a corporation, limited liability company, partnership, or other private entity that includes as one of its purposes the production of one or more television, film, radio, or other media-related commercials.

Provides that the Music, Film, Television, and Multimedia Office within the Office of the Governor has exclusive rulemaking authority for purposes of determining whether an advertising campaign is subject to the requirements of this section, establishing a bid process for purposes of services, and establishing criteria to determine whether a commercial production company or advertising agency is located in this state for the purposes of this section.

Texas Emerging Technology Fund Annual Report—H.B. 2531

by Representative Chavez et al.—Senate Sponsor: Senator Shapiro

The Texas Emerging Technology Fund was created during the 79th Legislature and is managed by the Office of the Governor. The fund promotes technology-related research and commercialization projects.

According to the Legislative Budget Board's (LBB) "Texas State Government Effectiveness and Efficiency" report, the Office of the Governor made 46 awards from the fund totaling \$85.3 million during the 2006-2007 biennium. During fiscal year 2008, 33 awards were made totaling \$51.8 million. Other states that have similar technology development programs are required to submit annual reports on the performance of the programs, but Texas does not currently have such a requirement. Additionally, under the fund's contracts, the governor may take an equity position in companies that receive commercialization awards. These investments are of a high-risk, high-return nature and warrant additional disclosure. This bill:

Requires the governor, not later than January 1 of each year, to submit to the legislature and post on the Office of the Governor's Internet website a report that includes certain information regarding the Texas Emerging Technology Fund (fund) for the preceding three state fiscal years

Requires that the annual report contain a brief description regarding the intended outcomes of projects funded under Subchapter D during the preceding two state fiscal years; and the actual outcomes of all projects funded under Subchapter D during the fund's existence, including any financial impact on the state resulting from a liquidity event involving a company whose project was funded under that subchapter.

Prohibits the report from including information that is made confidential by law.

Motor Vehicle Sales—H.B. 2556

by Representative Solomons—Senate Sponsor: Senator Carona

Under current law, auto dealers can make the financing of a motor vehicle to a consumer conditional on selling the contract to a holder in the secondary market. If the dealer is unable to sell the contract, which can range from one day to two months, then the dealer can repossess the motor vehicle from the consumer unless the consumer makes a larger down payment or refinances the contract. This bill:

Authorizes a retail seller and prospective retail buyer to enter into a conditional delivery agreement under the terms of which the retail seller allows the retail buyer the use and benefit of a motor vehicle for a specified term not to exceed 15 days.

Makes that agreement void on the execution of a retail installment contract between the two parties for the sale of the motor vehicle.

Prohibits such an agreement from conferring any rights of ownership, including ownership of that motor vehicle, and sets forth the obligations of each party with respect to the return of the vehicle in question and of any trade-in vehicle, down payment, or other consideration tendered by the prospective buyer under the agreement in the event that the seller and buyer do not subsequently enter into a retail installment contract.

Authorizes the consumer credit commissioner to review the terms of such an agreement if the buyer and seller do not subsequently enter into a retail installment contract and to assess an administrative penalty against the seller if the seller fails to meet certain conditions.

Authorizes either the seller or the buyer to appeal a determination by the commissioner and provides for a hearing of the appeal under the Administrative Procedure Act.

Prohibits a retail installment contract from being conditioned on the subsequent assignment of the contract to a holder and grants the commissioner exclusive jurisdiction to enforce provisions relating to this prohibition, except as otherwise provided by the bill.

Delinquent Payments of an Alcoholic Beverage Retailer's Account—H.B. 2560

by Representative Kuempel—Senate Sponsor: Senator Seliger

Currently, the Texas Alcoholic Beverage Commission (TABC) has procedures in place to prevent permit holders who are delinquent in payments for liquor from obtaining products illegally. This bill:

Prohibits TABC or the administrator from accepting the voluntary cancellation or suspension of a permit or allowing a permit to be renewed or transferred if the permit holder is delinquent in the payment of an account for liquor.

Provides that a person whose permit is canceled by TABC or whose permit has expired is not eligible to hold any other permit or license under the Alcoholic Beverage Code until the person has cured any delinquency of the person.

Hours for Wholesale Delivery or Sale of Alcoholic Beverages—H.B. 2594

by Representative Thompson—Senate Sponsor: Senator Gallegos

Current law authorizes the holder of a wholesaler's permit to sell, offer for sale, or deliver liquor to a retailer between 5 a.m. and 9 p.m. on any day except Sunday and Christmas Day. Current law authorizes the holder of a general, local, or branch distributor's license to sell, offer for sale, or deliver beer between 5 a.m. and midnight and, for a premises located in or in a county adjacent to a county with a population of 1.8 million or more, between 4 a.m. and midnight, on any day except Sunday. This bill:

Authorizes a holder of a wholesaler's permit to sell, offer for sale, or deliver liquor to a retailer anytime except Sunday and Christmas Day.

Authorizes a local distributor's permittee to sell, offer for sale, or deliver liquor to a retailer between 5 a.m. and 9 p.m. on any day except Sunday, Christmas Day, or a day on which a package store permittee is prohibited from selling liquor.

Authorizes the holder of a general, local, or branch distributor's license to sell, offer for sale, or deliver beer 24 hours a day Monday through Saturday and between midnight and 1 a.m. and between noon and midnight on Sunday

Repeals Section 105.052 (Sale of Beer by Distributor's Licensee in Certain Metropolitan Areas), Alcoholic Beverage Code.

Motor Vehicle Manufacturers and Distributor Regulations—H.B. 2640

by Representative Todd Smith—Senate Sponsor: Senator Watson

The current economic downturn and subsequent lack of consumer demand is causing many Texas franchised motor vehicle dealers to experience serious financial distress.

Current law provides a process through which a terminated franchised motor vehicle dealer may return certain unsold inventory to the manufacturer or distributor. The manufacturer or distributor compensates the franchised dealer for the dealer cost of the vehicle, with allowances for mileage, if the new vehicle is the current or previous model year. However, certain manufacturers attempt to circumvent the intent of the law by arbitrarily declaring new model years, thus reducing the number of vehicles covered and payments due under the statute.

In addition, there is nothing to prevent a manufacturer or distributor from taking adverse action against a franchised dealer on the grounds that the dealer sold or leased a vehicle that was subsequently exported to a location outside the United States. Manufacturers and distributors are increasingly utilizing provisions within their franchise agreements to charge back dealers on exported sales or leases. This occurs even in cases where the vehicle is sold to a second individual and the dealer has no way of knowing about the exportation; in such cases, charge backs are particularly onerous and unjustified. This bill:

Provides that the act of filing an application for a motor vehicle dealer's license or a prescribed form relating to such a license does not establish the applicant as a franchised dealer.

Requires the Motor Vehicle Board of the Texas Department of Transportation (MVB), in a protest of a rejection by a manufacturer or distributor of an application for approval of a dealer's transfer of ownership of a franchise, to determine whether the rejection was reasonable under specific criteria rather than whether the prospective transferee is qualified.

Amends requirements relating to the relocation or termination of a franchised dealer, amends the conditions the MVB must consider when determining good cause for establishing a dealership, and increases from one mile to two miles the maximum distance from the current site of a dealership for which a franchised dealer is prohibited from protesting an application to relocate the dealership.

Prohibits a manufacturer, distributor, or representative from unreasonably requiring a current or prospective franchisee to relocate, replace, or substantially change the dealer's facilities and establishes criteria for making such a determination.

Amends provisions relating to the circumstances the Motor Vehicle Division must consider in reviewing a manufacturer's or distributor's denial or withholding of approval of a franchise dealer's application to add a line-make and authorizes money paid by a manufacturer or distributor under an incentive program to only be paid to a dealer, with certain exceptions.

Prohibits a manufacturer, distributor, or representative from taking an adverse action against a franchised dealer because the dealer sells or leases a vehicle that is later exported to a location outside the United States, provides that a franchise provision allowing such adverse action is enforceable only under specified conditions, and provides that a franchised dealer is presumed to have no actual knowledge that a vehicle will be exported if the vehicle is titled and registered and applicable state and local taxes paid, unless rebutted by certain evidence.

Transfer of Real Property to Economic Development Corporations—H.B. 3072

by Representative Geren—Senate Sponsor: Senator Nelson

Current law prohibits a municipality from transferring publicly owned land to an economic development corporation. Rather, an economic development corporation is required to purchase publicly owned land through a bidding process. This process often restricts an economic development corporation's budget, drives up the price of the land, and creates a challenge to cities of limited resources that are pursuing redevelopment efforts. As long as such cities are unable to transfer publicly owned land directly to an economic development corporation, the situation will continue to trouble communities throughout Texas. This bill's provisions are restricted to a city of 20,000 or less to

ensure that the provisions affect only a city that does not possess the resources to acquire such land by conventional means. This bill:

Defines "economic development corporation."

Applies only to a municipality with a population of 20,000 or less.

Authorizes a municipality to transfer to an economic development corporation, for consideration described by this section, real property or an interest in real property without complying with the notice and bidding requirements of Section 272.001(a) or other law.

Provides that consideration for a transfer is in the form of an agreement between the parties that requires the economic development corporation to use the property in a manner that primarily promotes a public purpose of the municipality.

Provides that if the economic development corporation at any time fails to use the property in that manner, ownership of the property automatically reverts to the municipality.

Requires the municipality to transfer the property by an appropriate instrument of transfer and requires that the instrument include a provision that requires the economic development corporation to use the property in a manner that primarily promotes a public purpose of the municipality, and indicates that ownership of the property automatically reverts to the municipality if the nonprofit organization at any time fails to use the property in that manner.

Prohibits a municipality from transferring property to an economic development corporation if the municipality acquired the property through eminent domain.

Electronic Recording for Real Property Transactions—H.B. 3073

by Representative Geren—Senate Sponsor: Senator Fraser

Many counties, particularly urban counties, now utilize and request bulk filers to utilize electronic recording for the closing of transactions for title insurance on real property. County clerks have set up filing systems using third party providers, for which there is a charge in connection with each document transmitted for filing and recording. These charges are incurred for the benefit of the county and the consumer and are not part of the title insurance premium. However, without statutory clarification that these charges are not part of the title insurance premium and can be separately charged to the consumer, title companies and agents do not have an incentive to take advantage of these technological innovations. This bill:

Authorizes a title insurance company, title insurance agent, or direct operation to charge, separate from the title insurance premium, actual costs or a reasonable estimate of costs incurred in connection with a closing and settlement, including a charge by a third party for an electronic filing fee or a fee of a third party for the provision of an ad valorem tax report.

Use of Hotel Tax Revenue by General-Law Municipalities—H.B. 3098

by Representative Bolton—Senate Sponsor: Senators Wentworth and Watson

The three types of general law municipalities meet the provisions set forth in Chapter 5 (Types of Municipalities in General), Local Government Code. Hotels in some general law municipalities would like to become destinations for family tourism. Because revenue from the hotel occupancy tax may only be used to promote tourism and the

convention and hotel industry, this bill allows general law municipalities with populations of not more than 900 to construct recreational venues in the immediate area of local hotels using revenue from the municipal hotel occupancy tax. This bill:

Authorizes revenue from the municipal hotel occupancy tax to be used only to promote tourism and the convention and hotel industry, and provides that such use is limited to certain purposes, including the construction of a recreational venue in the immediate vicinity of area hotels, if the municipality is a general-law municipality, has a population of not more than 900 and does not impose an ad valorem tax; not more than \$100,000 of municipal hotel occupancy tax revenue is used for the construction of the recreational venue; a majority of the hotels in the municipality request the municipality to construct the recreational venue; the recreational venue will be used primarily by hotel guests; and the municipality will pay for maintenance of the recreational venue from the municipality's general fund.

Transactions Involving Plumbing, Air Conditioning, and Electrical Services—H.B. 3129

by Representative Tracy King—Senate Sponsor: Senator Wentworth

The 63rd Texas Legislature enacted the Texas Home Solicitation Act (Act), Chapter 39, Business and Commerce Code, which provides consumers the right to cancel a home solicitation transaction that occurs at the consumer's residence. The Act's intent is to protect residents from high-pressure door-to-door salesmen and to allow a period within which a consumer can cancel a transaction and require the merchant to restore any new or altered good to its original state.

Currently, a licensed plumber, electrician, or heating, ventilation, and air conditioning installer is subject to provisions of the Act, even though these license holders are not going door-to-door engaging in the solicitation of their services, in the manner of a door-to-door salesman, but are instead providing services in response to a consumer's request. This bill:

Provides that except as otherwise provided, Chapter 601 (Cancellation of Certain Consumer Transactions), Business and Commerce Code, does not apply to a good or service provided by a license holder under Chapter 1301 (Plumbers), Chapter 1302 (Air Conditioning and Refrigeration Contractors), or Chapter 1305 (Electricians), Occupations Code, if the transaction involving the good or service is initiated by the consumer.

Provides that Chapter 601, Business and Commerce Code, does apply to a transaction that involves a breach of express warranty or a negligent installation in violation of a building code applicable to the good or service sold to the consumer.

Use of Biometric Identifiers—H.B. 3186

by Representative McCall—Senate Sponsor: Senator Duncan

Biometric identifiers, including fingerprints, voiceprints, retina or iris scans, and records of hand or face geometry, are increasingly used by businesses and governmental entities to confirm the identity of an individual. However, a record of a biometric identifier can also be misused by identity thieves to impersonate the owner of the identifier in business transactions or other contexts. There are concerns that biometric data is increasingly becoming a target of identity theft and needs to be safeguarded to protect individual privacy and prevent economic harm to both individuals and businesses. This bill:

Provides that a person who possesses a biometric identifier of an individual that is captured for a commercial purpose is prohibited from selling, leasing, or otherwise disclosing the biometric identifier to another person unless certain provisions are met, including that the individual consents to the disclosure for identification purposes in the

event of the individual's disappearance or death, or the disclosure is made by or to a law enforcement agency for a law enforcement purpose in response to a warrant; and is required to destroy the biometric identifier within a reasonable time, but not later than the first anniversary of the date the purpose for collecting the identifier expires.

Requires the person who possesses the biometric identifier, if a biometric identifier of an individual captured for a commercial purpose is used in connection with an instrument or document that is required by another law to be maintained for a longer period of time, to destroy the biometric identifier within a reasonable time, but not later than the first anniversary of the date the instrument or document is no longer required to be maintained by law.

Provides that if a biometric identifier captured for a commercial purpose has been collected for security purposes by an employer, the purpose for collecting the identifier is presumed to expire on termination of the employment relationship.

Sale of Glassware and Nonalcoholic Beverages—H.B. 3413

by Representative Thompson—Senate Sponsor: Senator Averitt

Under current law, the holder of a wholesaler's permit is prohibited from selling any form of glassware to a retailer. However, other members of the wholesale tier are authorized to sell glassware to retailers that carry the brand or logo of the manufacturer of the product. Certain retail level permittees are allowed to sell certain types of glassware and equipment used for the making and dispensing of mixed beverages to other retailers, but the law prohibits this activity by wholesalers. Extending the ability to sell certain nonalcoholic beverage items by all members of the wholesale tier, while putting in place protections to safeguard the three-tier system and protect the independence of retailers, would better serve the needs of distributors and retailers in today's marketplace. This bill:

Authorizes the holder of a wholesaler's permit who is primarily engaged in the wholesale sale of distilled spirits and wine to sell branded or unbranded glassware to retailers, provided that the glassware is not marketed or sold in a manner to influence a retailer to purchase any quantity of alcoholic beverages, to affect the terms by which a retailer is authorized to purchase alcoholic beverages, or that threatens the independence of a retailer.

Sets forth provisions for the payment for unbranded glassware or glassware bearing the name, emblem, or logo of a brand of distilled spirits or wine by the holder of a wholesaler's permit.

Provides that for the purposes of territorial limits on the sale of beer and the Beer Industry Fair Dealing Law, the sale, by the holder of a distributor's license, of a nonalcoholic beverage produced or sold by a manufacturer of malt beverages and that bears the name, emblem, logo or brand of a manufacturer of malt beverages is the same as a sale of beer.

Texas Career Opportunity Grant Program—H.B. 3519

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

The 77th Legislature, Regular Session, 2001, established the Texas Career Opportunity Grant Program (program) to assist economically disadvantaged career school students in qualified postsecondary career education programs. The program was placed under the Texas Workforce Commission (TWC) because, at the time, more career school programs were overseen by TWC than by the Texas Higher Education Coordinating Board (THECB). However, that is no longer the case and when students and high school counselors seek grant opportunities and other financial aid, they generally look to THECB, rather than TWC. The purpose of this bill is to streamline the coordination and administration of the Texas Career Opportunity Grant Program. This bill:

Requires TWC and THECB to enter into a memorandum of understanding for the coordination and administration of the grant program.

Authorizes functions assigned to TWC under this chapter to be assigned to THECB pursuant to the memorandum of understanding.

Provides that the transfer to THECB of any functions relating to the administration of the program pursuant to a memorandum of understanding entered into applies beginning with grants awarded for the 2010 fall semester.

Physician Covenants—H.B. 3623

by Representative Elkins—Senate Sponsor: Senator Hegar

Covenants not to compete are legally enforceable contracts that restrict the ability of an individual to compete with former employers or business partners. Although generally enforceable in most situations, a bill enacted during the 76th Legislature, Regular Session, 1999, prohibited a covenant not to compete from restricting a physician from continuing to provide medical care and treatment to patients whom the physician had seen or treated within one year after the physician's employment or contract terminated. The legislation also prohibited a covenant not to compete from restricting a physician's access to the medical records of the physician's patients. Some question whether the language extends to covenants not to compete involving business ventures that do not involve the practice of medicine. This bill:

Provides that a covenant not to compete relating to the practice of medicine is enforceable against a person licensed as a physician by the Texas Medical Board if such covenant complies with certain requirements.

Provides that such a covenant does not apply to a physician's business ownership interest in a licensed hospital or licensed ambulatory surgical center.

Property Redevelopment and Tax Abatement Act—H.B. 3896

by Representative Oliveira—Senate Sponsor: Senator Seliger

The Property Redevelopment and Tax Abatement Act, Chapter 312, Tax Code, provides authorization for municipalities, counties, and other local taxing jurisdictions to enter into tax abatement agreements for local economic development purposes. Current law allows these local taxing jurisdictions to abate property taxes for a period of up to 10 years upon creation of a reinvestment zone. Tax abatement projects must meet guidelines that have been adopted by local jurisdictions. Chapter 312 abatements involve only local money and may not be granted by school districts. Tax abatement agreements are local economic development tools, involving exclusively local decisions and tax revenue, but under current law, Chapter 312 expires on September 1, 2009. This bill:

Provides that Chapter 312, Tax Code, expires September 1, 2019.

Authorizes the governing body of the taxing unit granting the abatement and the owner of the property that is the subject of the agreement to agree to defer the commencement of the abatement period.

Authorizes the commissioners court to execute a tax abatement agreement with the owner of taxable real property located in a reinvestment zone designated under this subchapter or with the owner of tangible personal property located on real property in a reinvestment zone to exempt from taxation all or a portion of the value of the real property, all or a portion of the value of the tangible personal property located on the real property, or all or a portion of the value of both.

Authorizes the commissioners court to execute a tax abatement agreement with the owner of a leasehold interest in tax-exempt real property located in a reinvestment zone designated under this subchapter to exempt all or a portion of the value of the leasehold interest in the real property.

Authorizes the court to execute a tax abatement agreement with the owner of tangible personal property or an improvement located on tax-exempt real property that is located in a designated reinvestment zone to exempt all or a portion of the value of the tangible personal property or improvement located on the real property.

Authorizes the commissioners court to execute a tax abatement agreement with a lessee of taxable real property located in a reinvestment zone designated under this subchapter to exempt from taxation all or a portion of the value of the fixtures, improvements, or other real property owned by the lessee and located on the property that is subject to the lease, all or a portion of the value of tangible personal property owned by the lessee and located on the real property that is the subject of the lease, or all or a portion of the value of both the fixtures, improvements, or other real property and the tangible personal property described by this subsection.

Management Committees of Certain Non-Profit Corporations—H.B. 4103

by Representative Weber—Senate Sponsor: Senator Hegar

Effective January 1, 2010, the new Texas Non-Profit Corporation Act will require a majority of each management committee to be comprised of members serving on the board of directors. Unless amended, this will affect the composition of many religious institution boards. Although this requirement is a valid means of committee selection, it does not provide churches and other institutions enough qualified directors to serve on board committees with more technical functions. Religious institutions choose directors to serve on their boards based on their religious beliefs about institutional governance. Committees required to adopt these membership requirements may be forced to choose between a director who is outside of the institution's belief system or a member who lacks the expertise to appropriately contribute to the committee. This bill:

Authorizes a management committee, if a corporation is a religious institution and if provided by the corporation's certificate of formation or bylaws, to be composed entirely of persons who are not directors of the corporation.

Revenue Sources for Venue Projects in Certain Municipalities—H.B. 4360

by Representative Geren—Senate Sponsor: Senator Nelson

Under current law, a municipality or county is prohibited from using revenue it derives from oil and gas leases on municipal or county owned properties to construct or renovate a venue that is part of an approved venue project. A municipality or county may not enter into an interlocal agreement to use revenue it derives from fees imposed by a joint operating board to which it is a party to construct or renovate a voter-approved venue project. H.B. 4360 increases the types of funding that a county or municipality may deposit into a venue project fund.

Currently, a municipality or county is authorized to impose a tax on motor vehicles parking in a parking facility of a voter approved venue project only during certain hours and at certain rates. This bill:

Authorizes the municipality or county to deposit into the venue project fund:

- if the revenue is not otherwise dedicated, all or a portion of any revenue the municipality or county receives from bonuses, delay rentals, royalties, and any other payments the municipality or county receives as the owner of oil, gas, and other mineral interests;

- if the revenue is not otherwise dedicated, all or a portion of any revenues the municipality or county receives from the fees, payments, or charges imposed by a joint operating board to which a municipality or county is a party, or a nonprofit corporation created by and acting on behalf of a county or municipality; and
- any other revenue the municipality by ordinance or the county by order determines is appropriate for use in financing a venue project and related infrastructure.

Authorizes the municipality or county, if the approved venue project consists of three or more separate but adjacent venue facilities, to impose the event parking tax during any hours.

Authorizes a certain municipality to impose the authorized parking tax at a rate not to exceed \$5 for each motor vehicle.

Applies only to a municipality with a population of more than 700,000 within a county with a population of more than one million that is adjacent to a county with a population of more than two million.

Authorizes a municipality that has adopted a parking tax at a rate of less than \$5 a vehicle by ordinance to increase the rate of the tax to a maximum of \$5 a vehicle if the increase is approved by a majority of the registered voters of the municipality voting at an election called and held for that purpose.

Projects in the Baytown Municipal Development District—H.B. 4376

by Representative Wayne Smith—Senate Sponsor: Senator Williams

The Baytown Municipal Development District (district) was created to foster and promote an environment for new and expanded business development. The use of funds for development projects, as defined by Section 377.001, Local Government Code, is governed by economic development "4B" sales tax rules. Pursuant to the Development Corporation Act, "4B" projects include land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are for the creation or retention of primary jobs and that are found to be suitable for the development, retention, and expansion of certain facilities. The challenge under newly changed rules is that the most blighted and economically disadvantaged areas lack the ability to provide meaningful incentives to attract commercial enterprises, including neighborhood retail and restaurants, and an expanded employment base.

The district seeks to have the ability to expend funds to attract a wide range of businesses, improve quality of life, retain the primary jobs already created, and attract new ones in order to enhance Baytown's ability to strengthen the tax base, revitalize the most challenged neighborhoods, and improve the quality of life for all segments of the population. This bill:

Authorizes the district, notwithstanding any other law, to spend sales tax revenue on the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements the governing body of the district finds will promote new or expanded business development in the district.

Sale and Consumption of Alcoholic Beverages in Certain Municipalities—H.B. 4498

by Representative Hamilton—Senate Sponsor: Senator Nichols

Local option elections ensure that citizens of a jurisdiction have the right to authorize or prohibit the sale, provision, or service of alcoholic beverages in the jurisdiction. Currently, a political subdivision cannot vote to prohibit a previously legalized classification of alcoholic beverage unless the sale of all classifications is legal in that political subdivision. This bill:

Applies only to a mixed beverage permit holder whose premises are located in or to the holder of a caterer's permit operating under the permit in a municipality that has a population of less than 15,000, is located in a county with a population of less than 65,000, and contains a history preservation district that borders a lake.

Authorizes the holder of a mixed beverage permit or the holder of a caterer's permit whose permitted premises are located on property owned by a municipality that contains a municipally owned conference center and that borders a lake to permit a patron to leave the permitted premises, even though the patron possesses an alcoholic beverage, if the beverage is in an open container and appears to be possessed for present consumption and the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the permitted premises are located.

Does not affect the prohibition against possessing an open container in a passenger area of a motor vehicle.

Requires that the ballot for a prohibitory election, in an area where the sale of any type or classification of alcoholic beverages has been legalized, be prepared to permit voting for or against one of certain issues, as applicable.

Repeals Sections 501.035(d) (relating to the ballot for a prohibitory election), (e) (relating to an area where the sale of beverages containing alcohol not in excess of 17 percent by volume has been legalized, and those of higher alcoholic content are prohibited), and (f) (relating to an area where the sale of beer containing alcohol not exceeding four percent by weight has been legalized, and all other alcoholic beverages are prohibited), Election Code.

Use of Certain Alcoholic Beverages by Winery Permit Holders—S.B. 529

by Senator Nelson—House Sponsor: Representative Truitt

Currently, there are two options Texas wineries can use for brandy procurement. A Texas winery can purchase brandy through an out-of-state non-resident seller, or distill brandy as allowed by current winery licenses. Once procured or produced, the only thing a Texas winery can do with the brandy is blend it with wine. This bill:

Authorizes the holder of a winery permit to manufacture fruit brandy and use that brandy on the winery permit holder's permitted premises for fortifying purposes only or sell that brandy to other winery permit holders and to import or buy fruit brandy from a permit holder authorized to manufacture fruit brandy and use that brandy on the winery permit holder's permitted premises for fortifying purposes only.

Vehicle Possessory Liens—S.B. 543

by Senator Carona—House Sponsor: Representative Harless

A mechanic's possessory lien is a security interest in the title to property for the benefit of those who have supplied labor or materials that improve the property. Chapter 70, Property Code, states that a holder of a mechanic's lien on a motor vehicle has a superior property claim to the vehicle over the holder of another type of lien on the vehicle and the vehicle's owner. In situations involving unpaid repairs or improvements to a motor vehicle, a holder of a mechanic's lien who has had the vehicle for 30 days after the repairs were charged must give written notice of the mechanic's lien to the vehicle's last known registered owner and each lienholder on the title. The notice must be sent by certified mail with return receipt requested and must include the amount of the charges and a request for payment. If payment is not received before the 31st day after notice was mailed, the holder may sell the motor vehicle at a public sale and apply the proceeds to the charges.

Criminal actors have exploited a loophole in the notice requirement to acquire fraudulently title to a motor vehicle. The fraud involves a person or organization that falsely claims to hold a mechanic's lien and files a fraudulent "notice" containing false information (or no information at all) to the owner and lienholders of record, who often sign the return

receipt without first checking to see if the notice is valid. After the expiration of the 30-day period following the mailing of the notice, the person committing the fraud will request an application for title to the motor vehicle from a tax assessor and present the fraudulently acquired return receipt as “proof” that notice was given. Upon acquiring title, the criminal actor usually will sell the vehicle at a public auction and pocket the proceedings. This bill:

Excludes charges for repairs from the amount of a lien a garageman has on a motor vehicle, motorboat, vessel, or outboard motor left in the garageman's care.

Clarifies that a holder of a worker's possessory lien who retains possession of a motor vehicle, motorboat, vessel, or outboard motor is required to give written notice to the owner and each holder of a lien recorded on the certificate of title not later than the 30th day after the date on which the charges accrue.

Requires the holder of such a lien on a motor vehicle, other than a person licensed as a franchise dealer, to file a copy of the notice and pay a fee to the county tax assessor-collector in the county in which the repairs were made and specifies the information to be included in the notice.

Requires the county tax assessor-collector, not later than 10 days after receiving notice, to provide a copy of the notice to the owner and each lienholder in the same manner as the lienholder is required to provide notice.

Establishes that noncompliance with the notice requirements makes a lien recorded on a certificate of title superior to the possessory lienholder's lien and makes it a Class B misdemeanor to knowingly provide false or misleading information in such a notice.

Requires the possessory lienholder, after providing the required notice, to provide reasonable opportunity for an inspection of the vehicle repairs.

Agreements and Exemptions in Tax Increment Finance Zones—S.B. 576

by Senators Wendy Davis and Nelson—House Sponsor: Representative Todd Smith

Owners of historic properties located in a Tax Increment Finance Zone (TIF) are currently unable to receive incentives for improving and restoring their historic property. Therefore, historic property inside TIFs is often razed or lost to neglect. Another problem is that TIF funds currently cannot be used to acquire rights-of-way or build roads or sidewalks into and out of a TIF. Stakeholders around a TIF sometimes complain that the additional traffic generated by the TIF harms area roads, and that those outside the TIF are left to pay for the road repair and construction.

Currently, municipalities are not allowed to grant ad valorem tax exemptions, such as those for historic properties, to real property owners inside a TIF. Also, the current statute requires that TIF funds be used to pay for infrastructure and can only be used on roads and sidewalks inside the TIF boundaries. This bill:

Authorizes an agreement to dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay any project costs that benefit the reinvestment zone, including project costs relating to the construction of a road, sidewalk, or other public infrastructure in or out of the zone, including the cost of acquiring the real property necessary for the construction of the road, sidewalk, or other public infrastructure.

Authorizes a taxing unit, including a municipality, subject to the provisions of Section 311.0125 (Tax Abatement Agreements), Tax Code, in lieu of permitting a portion of its tax increment to be paid into the tax increment fund, and notwithstanding the provisions of Section 312.203 (Expiration of Reinvestment Zone), to elect to offer the owners of taxable real property in a reinvestment zone created under this chapter an exemption from taxation of all or part of the value of the property.

Requires that an agreement to exempt real property from ad valorem taxes be approved by the board of directors of the reinvestment zone, and the governing body of each taxing unit that imposes taxes on real property in the reinvestment zone and deposits or agrees to deposit any of its tax increment into the tax increment fund for the zone.

Deletes existing text prohibiting a taxing unit from offering a tax abatement agreement to property owners in the zone after it has entered into an agreement that its tax increments would be paid into the tax increment fund.

Proof of Identification for Alcoholic Beverage Purchases—S.B. 693

by Senator Van de Putte—House Sponsor: Representative Kuempel

Currently, a consumer must provide a valid driver's license or identification card issued by the Texas Department of Public Safety (DPS) when purchasing alcohol. However, numerous military personnel either stationed in or visiting Texas cannot purchase alcohol because their military identification cards are not acceptable forms of identification. The current statute also disenfranchises tourists and out-of-state college students by not allowing them to use their states' identification cards to purchase alcohol. This bill:

Provides that a person who sells a minor an alcoholic beverage does not commit an offense if the minor falsely represents himself to be 21 years old or older by displaying an apparently valid proof of identification, rather than an apparently valid Texas driver's license or an identification card issued by the Texas Department of Public Safety (DPS), that contains a physical description and photograph consistent with the minor's appearance, purports to establish that the minor is 21 years of age or older, and was issued by a government agency.

Authorizes the proof of identification to include a driver's license or identification card issued by DPS, a passport, or a military identification card.

Winery Festival Permit—S.B. 711

by Senator Nelson—House Sponsor: Representative Geren

Currently, the only avenues through which Texas wineries can provide wine to consumers in a festival format is when a civic or local festival host organizer applies for and is granted a temporary beer and wine retailers permit. Under this system, the festival then must purchase the wine wholesale, provide the sales operations, and take on the liability of selling alcohol. This bill:

Authorizes the holder of a winery festival permit to sell wine at a civic or wine festival, farmers' market, celebration, or similar event.

Prohibits the holder of a winery festival permit from offering wine for sale under this chapter for more for more than five days within any 30-day period or on more than three consecutive days at the same location.

Authorizes a winery festival permit to be issued only to the holder of a winery permit.

Requires the holder of a winery festival permit, before the permit holder offers wine for sale under, in accordance with any rules adopted or procedures established by the Texas Alcoholic Beverage Commission (TABC), to notify TABC of the date on which and location where the permit holder will offer wine for sale.

Provides that the provisions of the Alcoholic Beverage Code applicable to the sale of wine on the permitted premises of the holder of a winery permit apply to the sale of wine at a winery festival.

Authorizes the winery permit of the holder of a winery festival permit to be cancelled or suspended for a violation occurring in connection with activities conducted at a winery festival.

Sale of Certain Alcoholic Beverages to Private Club Registration Permit Holders—S.B. 731

by Senator Jackson—House Sponsor: Representative Hardcastle

The sale of ale and malt liquor by wholesalers, general class B wholesalers, and local class B wholesalers to the holder of a private club registration permit is prohibited under current statute. This bill:

Authorizes the holder of a wholesaler's permit, the holder of a general class B wholesaler's permit, and the holder of a local class B wholesaler's permit to sell ale and malt liquor to a holder of a private club registration permit.

Jurisdiction Relating to a Wage Claim Filed After the Deadline—S.B. 741

by Senator Nichols—House Sponsor: Representative Darby

Under current law, a person is allowed 180 days to file a wage claim with the Texas Workforce Commission (TWC). If a wage claim is filed after the 180-day deadline, TWC will send the wage claim back to the claimant indicating that the wage claim was filed after the 180-day deadline. The Texas Supreme Court ruled that it was not clear that the 180-day deadline is jurisdictional and that if TWC returns a claim because it was filed after the deadline, TWC is making a determination on the merits of the claim. Therefore, a claimant is unable to pursue a wage claim in court if TWC makes a determination that the wage claim was filed after the 180-day jurisdictional deadline. S.B. 741 streamlines the process for a wage claim to go before a court after the 180-day filing period. This bill:

Requires that a wage claim be filed not later than the 180th day after the date the wages claimed became due for payment.

Provides that the 180-day deadline is a matter of jurisdiction.

Requires the examiner, if a wage claim is filed later than the date described by Section 61.051(c), to dismiss the wage claim for lack of jurisdiction.

Identity Recovery Service Contracts—S.B. 778

by Senator Watson—House Sponsor: Representative Geren

The rise in identity theft has prompted many companies to sell noninsurance services to help a consumer prevent or minimize the consumer's risk of identity theft, and if identity theft occurs, to recover the consumer's identity. Some of these services are designed to be sold to consumers and financed into an auto loan when a vehicle is purchased. Currently, these services are not regulated and it is not sufficiently clear that they can be financed as part of certain car loans. This bill:

Authorizes a retail installment contract to include, as a separate charge, an amount for an identity recovery service contract.

Authorizes a service contract to also provide for identity recovery, if the service contract is financed under Chapter 348 (Motor Vehicle Installment Sales), Finance Code.

Authorizes a vehicle protection product to also include identity recovery if the vehicle protection product is financed under Chapter 348, Finance Code.

Amends Title 8, Occupations Code, by adding Chapter 1306 (Identity Recovery Service Contract Providers and Administrators), cited as the Identity Recovery Service Contract Regulatory Act.

Defines "administrator," "commission," "consumer," "department," "executive director," "identity recovery," "identity recovery service contract holder," "person," "provider," "reimbursement insurance policy," "identity recovery service contract," "controlling person," and "net written premiums."

Provides that Chapter 1306, Occupations Code, does not apply to an identity recovery service contract (contract) sold or offered for sale to a person who is not a consumer or an identity recovery service contract sold by a motor vehicle dealer on a motor vehicle sold by that dealer, if the dealer is the provider, is licensed as a motor vehicle dealer under Chapter 2301 (Sale of Lease of Motor Vehicles), and covers its obligations under the identity recovery service contract with a reimbursement insurance policy.

Exempts marketing, selling, offering for sale, issuing, making, proposing to make, and administering a contract from the Insurance Code and other laws of this state regulating the business of insurance.

Prohibits a person regulated by Chapter 2301 from requiring the purchase of a contract as a condition of a loan or the sale of a vehicle.

Authorizes the executive director of the Texas Department of Licensing and Regulation (executive director) to investigate a provider, administrator, or other person as necessary to enforce Chapter 1306 and protect identity recovery service contract holders in this state.

Requires a provider, on request of the executive director, to make records required available to the executive director as necessary to enable the executive director to reasonably determine compliance with Chapter 1306.

Prohibits a person from operating as a provider or administrator of contracts sold in this state unless the person is registered with the Texas Department of Licensing and Regulation (TDLR).

Exempts a provider, identity recovery service contract seller, administrator, or other person who markets, sells, or offers to sell identity recovery service contracts, except for the registration requirement, from any licensing requirement of this state that relates to an activity regulated under Chapter 1306.

Establishes requirements for the registration application, renewal, and fees, and requires each provider to meet certain financial security requirements to ensure it can meet its obligations to its contract holders.

Authorizes a provider to appoint an administrator registered under Chapter 1306 to be responsible for all or any part of the administration or sale of contracts and for compliance with Chapter 1306.

Provides that the appointment of an administrator does not affect a provider's responsibility to comply with Chapter 1306.

Prohibits a provider from selling, offering for sale, or issuing a contract in this state unless the provider gives the contract holder a receipt for, or other written evidence of, the purchase of the contract and a copy of the contract within a reasonable period after the date of purchase.

Requires a provider to maintain accurate accounts, books, and other records regarding transactions regulated under this chapter.

Requires that a contract marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state include certain information.

Establishes terms by which a contract may be returned, voided, or canceled.

Prohibits a provider from using a name that includes "insurance," "casualty," "surety," or "mutual" or any other word descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of an insurance or surety corporation or to the name of any other provider.

Authorizes a provider to include in its name "guaranty" or a similar word.

Prohibits a provider or the provider's representative from, in the provider's contracts or literature, making, permitting, or causing to be made any false or misleading statement or deliberately omitting a material statement if the omission would be considered misleading.

Authorizes the Texas Commission of Licensing and Regulation (TCLR), on a finding that a ground for disciplinary action exists under Chapter 1306, to impose an administrative sanction, including an administrative penalty.

Authorizes the executive director to institute an action under Section 51.352 (Injunctive Relief; Civil Penalty), Occupations Code, for injunctive relief to restrain a violation or a threatened violation of Chapter 1306 or an order issued or rule adopted under that chapter.

Authorizes the executive director, in addition to the injunctive relief, to institute an action for a civil penalty.

Provides that violations are of a similar nature if the violations consist of the same or a similar course of conduct, action, or practice, regardless of the number of times the conduct, act, or practice occurred.

Provides that Sections 51.305 (Hearing on Recommendations), 51.310 (Administrative Procedure), and 51.354 (Right to Hearing; Administrative), Occupations Code, apply to disciplinary action taken under this chapter.

Requires TCLR, not later than January 1, 2010, to adopt rules to implement Chapter 1306, Occupations Code.

Local Option Election for the Sale of Alcoholic Beverages—S.B. 1034

by Senator Fraser—House Sponsor: Representative Susan King

Current law relating to local option elections for the sale of alcoholic beverages primarily focuses on the initial election to determine whether or not an area wants to allow the sale of alcoholic beverages. Subsequent annexation of new land into municipalities often leaves small areas that are not afforded the same rights and options available to the majority of citizens within the municipal limits as it relates to the sale of alcoholic beverages. The administrative burdens under the law often create a situation whereby one area of the municipality is afforded certain rights and residents in another part of the municipality are denied those same rights. This bill:

Applies only to a municipality with a population of at least 112,000 located in a county with a population of not more than 135,000; in which the sale of one or more types or classifications of alcoholic beverage is legal in the municipality as the result of a local option election held in the municipality; and that, after the election is held, annexes territory in which the sale of one or more of those types or classifications of alcoholic beverages is not legal.

Authorizes the governing body of such a municipality, after holding a public hearing, by resolution, to order a local option election to be held in the municipality on the ballot issue the passage of which would legalize the sale of the same types and classifications of alcoholic beverages the sale of which was legalized by the results of the local option election.

Requires that an election ordered by the governing body of a municipality be conducted by the municipality instead of the county.

Provides that for the purposes of a such an election, a reference in the Election Code to the county is considered to refer to the municipality; to the commissioners court is considered to refer to the governing body of the municipality; to the county clerk or registrar of voters is considered to refer to the secretary of the municipality or, if the municipality does not have a secretary, to the person performing the functions of a secretary of the municipality; and to the county judge is considered to refer to the mayor of the municipality or, if the municipality does not have a mayor, to the presiding officer of the governing body of the municipality.

Requires that the municipality pay the expense of the election.

Amendments to the Texas Timeshare Act—S.B. 1036

by Senator Harris—House Sponsor: Representative Geren

The 79th Legislature, Regular Session, 2005, adopted a rewrite of the Texas Timeshare Act (Act). All interested stakeholders came together to adopt model legislation related to the timeshare industry. Since the passage of that legislation in 2005, other states have adopted this model and implemented it, but there is a need for modification of the Act. This bill:

Authorizes the Texas Real Estate Commission (TREC) to accept an abbreviated registration application from a developer of a timeshare plan for any accommodations in the plan located outside this state.

Deletes existing provision requiring the timeshare disclosure statement for a single-site timeshare plan or a multisite timeshare plan that includes a specific timeshare interest to include, in the current annual budget, if available, or the projected annual budget for the timeshare plan or timeshare properties managed by the same managing entity if assessments are deposited in a common account, the name and address of the person who prepared the operating budget.

Provides that in providing the required disclosures, the use of the terms "vacation ownership interest" or "vacation ownership plan" to refer to the timeshare interest or plan offered by the developer, or the use of other terms that are substantially similar and that are regularly used by the developer to denote a timeshare interest or plan, is sufficient and complies with certain requirements.

Provides that in providing the full name of a developer or a marketing company, the disclosure of an assumed name of the developer or the marketing company, if the entity has complied with the requirements of the applicable assumed business names statutes or other laws regarding the use of the assumed name, is sufficient.

Deletes existing provision requiring the purchase contract to also include a statement disclosing that the timeshare common properties are not mortgaged, unless the mortgage contains a nondisturbance clause which fully protects the use and enjoyment rights of each timeshare owner in the event of foreclosure; and in the event such timeshare interests are sold under a lease, right to use, or membership agreement where free and clear title to the accommodation is not passed to the purchaser, then the purchase contract is required to contain a statement that the timeshare is free and clear, or if subject to a mortgage, the mortgage must contain a nondisturbance clause which fully protects the use and enjoyment rights of each timeshare owner in the event of foreclosure.

Provides that excluding any encumbrance placed against the purchaser's timeshare interest that secures the purchaser's payment of purchase money financing for the purchase, the developer is not entitled to the release of any funds escrowed with respect to each timeshare interest until the developer has provided TREC with satisfactory evidence that certain conditions have been met and certain actions have been taken.

Termination of Existing Tax Increment Finance Districts—S.B. 1105

by: Senator Duncan—House Sponsor: Representative Jones

In 2004, Attorney General Opinion No. GA-0276 stated that Section 311.017 (Termination of Reinvestment Zone), Tax Code, prohibits an extension of the termination of an existing tax increment finance district. In 2008, the City of Lubbock adopted a downtown Revitalization Action Plan (plan). The current Central Business District Tax Increment Financing (TIF) Reinvestment Zone is expected to terminate in 2021, before the plan will be finished. S.B. 1105 would allow the City of Lubbock to amend the TIF ordinance by extending the termination date to 2031. This bill:

Applies only to a reinvestment zone created by a municipality that has a population of 195,000 or more and is the county seat of a county that has a population of 245,000 or less.

Authorizes a municipality by ordinance adopted subsequent to the ordinance adopted by the municipality creating a reinvestment zone to designate a termination date for the zone that is later than the termination date designated in the ordinance creating the zone but not later than the 20th anniversary of that date.

Provides that if the municipality adopts an ordinance extending the termination date for a reinvestment zone as authorized by this subsection, the zone terminates on the earlier of the termination date designated in the ordinance or the date provided on which all project costs have been paid in full.

Use of Hotel Tax Revenue by Certain Municipalities for Hotel Construction—S.B. 1207

by Senator Seliger—House Sponsor: Representative Swinford

Generally, hotel occupancy tax revenue cannot be used by a city for construction of a hotel. However, statutory exceptions have been made to allow some cities to utilize such revenue for hotel construction. The City of Amarillo does not currently fit the geographical or population brackets of these existing exceptions. The language in this legislation is the result of compromise and agreement between local hoteliers and the City of Amarillo. This bill:

Authorizes an eligible municipality with a population of 173,000 or more that is located within two counties to pledge the revenue derived from the tax imposed under this chapter from certain hotel projects for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, and equip the hotel and any facilities ancillary to the hotel, including shops and parking facilities.

Prohibits a municipality with a population of 173,000 or more that is located within two counties and is not an eligible central municipality from pledging revenue in relation to a particular hotel project after the earlier of the 20th anniversary of the date the municipality first pledged the revenue to the hotel project or the date the revenue pledged to the hotel project equals 40 percent of the hotel project's total construction cost.

Use of Hotel Tax by Certain Eligible Central Municipalities—S.B. 1247

by Senator Harris—House Sponsor: Representative Pierson

Currently, cities are authorized to charge a maximum hotel occupancy tax rate of seven percent. However, some cities that meet the definition of an eligible central municipality are authorized to charge different rates ranging up to nine percent. The Tax Code relating to municipal hotel occupancy tax allows an eligible central municipality with a population of over 440,000 to receive a full rebate for sales and use tax, as well as hotel tax by a hotel development if it meets certain criteria. This means that an eligible city would receive the six percent share that the state imposes. At this time, the City of Arlington is not eligible to receive such a rebate. This bill:

Redefines "eligible central municipality" as a municipality with a population of more than 140,000, rather than 440,000, but less than 1.5 million that is located in a county with a population of one million or more and that has adopted a capital improvement plan for the expansion of an existing convention center facility.

Does not apply to a municipality to which Section 351.106 (Allocation of Revenue: Populous Municipalities with Council-Manager Government), Tax Code, applies or to an eligible central municipality with a population of less than 440,000.

Authorizes revenue from the municipal hotel occupancy tax to be used only to promote tourism and the convention and hotel industry and limits that use to certain purposes.

Authorizes an eligible central municipality to pledge the revenue derived from the tax imposed under this chapter from a hotel project that is owned by or located on land owned by the municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that is located within 1,000 feet of a convention center facility owned by the municipality for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, and equip the hotel and any facilities ancillary to the hotel, including convention center entertainment-related facilities, restaurants, shops, and parking facilities within 1,000 feet of the hotel or convention center facility.

Provides that a certain municipality is entitled to receive all funds from a project that an owner of a project is authorized to receive and is authorized to pledge the funds for the payment of obligations issued.

Business Entities and Associations—S.B. 1442

by Senator Fraser—House Sponsor: Representative Giddings

The Business Organizations Code codified the provisions of prior law found in the Texas Business Corporation Act, the Texas Nonprofit Corporation Act, the Texas Miscellaneous Corporation Laws Act, the Texas Limited Liability Company Act, the Texas Revised Limited Partnership Act, the Texas Real Estate Investment Trust Act, the Texas Uniform Unincorporated Nonprofit Associations Act, the Texas Professional Corporation Act, the Texas Professional Associations Act, the Texas Revised Partnership Act, the Cooperative Associations Act, and other existing provisions of Texas statutes governing domestic entities. Various boards and the Office of the Secretary of State (SOS) identified technical issues that needed to be addressed in current statutes in order to provide the state with a better structure to attract new business. This bill:

Deletes existing provision prohibiting a domestic entity from operating as a railroad company.

Prohibits a certificate representing ownership interest in a domestic entity from being issued in bearer form.

Authorizes the governing persons, owners, or members of a domestic entity to adopt provisions in the entity's governing documents regarding the management of the entity during an emergency, including certain provisions.

Authorizes a certificate, subject to any qualification stated in the certificate, issued by the secretary of state stating that a domestic filing entity or that a foreign filing entity is in existence to be relied on as conclusive evidence of the entity's existence.

Requires that a certificate of correction be signed by the person authorized to sign the filing instrument to be corrected.

Provides that the participation or attendance at a meeting of a person entitled to notice of the meeting constitutes a waiver by the person of notice of a particular matter at the meeting that is not included in the purposes or business of the meeting described in the notice unless the person objects to considering the matter when it is presented.

Provides that an electronic transmission of a consent by an owner, member, or governing person to the taking of an action by the entity is considered a signed writing if the transmission contains or is accompanied by information from which it can be determined that the electronic transmission was transmitted by the owner, member, or governing person and the date on which the owner, member, or governing person transmitted the electronic transmission.

Requires that certain supplemental information be included in an application for registration of foreign limited liability companies.

Requires a foreign filing entity to amend its registration to reflect a change to its name; a change in the business or activity stated in its application for registration; and, if the foreign filing entity is a limited partnership, the admission of a new general partner, the withdrawal of a general partner, and a change in the name of the general partner stated in its application for registration.

Provides that a foreign filing entity or foreign limited liability partnership registered in this state that converts to a domestic filing entity is considered to have withdrawn its registration on the effective date of the conversion.

Requires that a tax clearance letter from the comptroller of public accounts (comptroller) stating certain information be filed with the certificate of reinstatement if the foreign filing entity is a taxable entity, other than a foreign nonprofit corporation, for-profit corporation, or limited liability company.

Includes owning real or personal property in this state among activities that do not constitute transaction of business in this state.

Sets forth provisions relating to the conversion and continuance of a domestic or non-United States entity, including certain information that is required to be included in a plan of conversion and certificate of conversion.

Authorizes the beneficial owner of an ownership interest subject to dissenters' rights held in a voting trust or by a nominee on the beneficial owner's behalf to file a petition if no agreement between the dissenting owner of the ownership interest and the responsible organization has been reached within a prescribed period.

Provides that on termination of the right of dissent under, in addition to other rights, the dissenting owner is entitled to receive the same cash, property, rights, and other consideration received by owners of the same class and series of ownership interests held by the owner, as if the owner's demand for payment of the fair value of the ownership interests had not been made, if the owner's ownership interests were canceled, converted, or exchanged as a result of the action or a subsequent action; and any action of the domestic entity taken after the date of the demand for payment by the owner will not be considered ineffective or invalid because of the restoration of the owner's ownership interests or the other rights or entitlements of the owner.

Amends the requirements for a certificate of termination and a certificate of reinstatement of a domestic filing entity.

Provides that a district court in the county in which the registered office or principal place of business in this state of a domestic partnership or limited liability company is located has jurisdiction to order the winding up and termination of the domestic partnership or limited liability company on application by certain people.

Authorizes SOS, on acceptance of the filing of an instrument authorized to be filed with SOS under the Business Organizations Code, to issue a certificate that evidences the filing of the instrument, a letter that acknowledges the filing of the instrument, or a certificate that evidences the filing of the instrument and a letter that acknowledges the filing of the instrument.

Provides that provisions relating to information disclosed by interrogatories and appeals from SOS do not apply to a domestic real estate investment trust.

Requires that a corporation's certificate of formation, if more than one class or series of shares is authorized, designate each class and series of authorized shares to distinguish that class and series from any other class or series.

Requires that all shares of the same series be identical in all respects if the shares of a class have been divided into one or more series.

Requires that a for-profit corporation's certificate of formation authorize one of more classes or series of shares that together have unlimited voting rights, and one or more classes or series of shares that together are entitled to receive the net assets of the corporation on winding up and termination.

Authorizes a for-profit corporation to place the shares, although fully paid and nonassessable, in escrow, or make other arrangements to restrict the transfer of the shares, and to credit distributions made with respect to the shares against their purchase price, until the services are performed, the note is paid, or the benefits are received.

Authorizes the for-profit corporation, if the services are not performed, the note is not paid, or the benefits are not received, to pursue remedies provided or afforded under law or in the contract or note, including causing the shares that are placed in escrow or restricted to be forfeited or returned to or reacquired by the corporation and the distributions that have been credited to be wholly or partly returned to the corporation.

Deletes an existing provision that authorizes a for-profit corporation to issue certain scrip in bearer form.

Provides that shares that are issued by a for-profit corporation are outstanding shares unless the shares are treasury shares or are canceled.

Requires that one or more shares, if there are outstanding shares, that together have unlimited voting rights and one or more shares that together are entitled to receive the net assets of the corporation on the winding up and termination of the corporation, be outstanding shares.

Authorizes a for-profit corporation to establish a procedure by which the corporation recognizes as a shareholder the beneficial owner of shares registered in the name of a nominee.

Entitles each shareholder entitled to vote at each election of directors of the for-profit corporation, if expressly authorized by a corporation's certificate of formation in general or with respect to a specified class or series of shares or group of classes or series of shares, to cumulate votes by certain methods.

Authorizes the certificate of formation of a for-profit corporation to provide that directors are entitled to cast more or less than one vote on all matters or on specified matters.

Prohibits a limited liability company, unless the distribution is made in compliance with Chapter 11 (Winding Up and Termination of Domestic Entity), Business Organizations Code, from making a distribution to a member of the company in certain circumstances.

Authorizes a limited liability company agreement to establish or provide for the establishment of a record date with respect to allocations and distributions.

Provides that an otherwise valid contract or transaction is valid notwithstanding that the governing person or officer having the relationship or interest is present at or participates in the meeting of the governing authority, or of a committee of the governing authority that authorizes the contract or transaction or votes or signs, in the person's capacity as a governing person or committee member, a written consent of governing persons or committee members to authorize the contract or transaction, if the material facts as to the relationship or interest and as to the

contract or transaction are disclosed to or known by certain entities and that entity in good faith authorizes the contract of transaction by the approval of the majority of disinterested governing persons or committee members, regardless of whether the disinterested governing persons or committee members constitute a quorum.

Authorizes a limited liability company agreement to establish or provide for the establishment of one or more designated series of members, managers, membership interests, or assets that has separate rights, powers, or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations or has a separate business purpose or investment objective and sets forth provisions for the series.

Authorizes a limited liability partnership to have elected or appointed officers.

Provides that as except as provided certain provisions or the partnership agreement, a partner in a limited liability partnership is not personally liable to any person, including a partner, directly or indirectly, by contribution, indemnity, or otherwise, for a debt or obligation of the partnership incurred while the partnership is a limited liability partnership.

Requires that a certificate from the comptroller stating all necessary taxes administered by the comptroller have been paid by a domestic or foreign partnership, be filed with the notice of withdrawal of a registration.

Requires that a tax clearance letter from the comptroller stating that a foreign limited liability partnership has satisfied all franchise tax liabilities and is authorized to be reinstated be filed with certificate of reinstatement if the foreign limited liability partnership is a taxable entity.

Prohibits a limited partnership from making a distribution to a partner under certain circumstances, not including an amount constituting reasonable compensation for present or past services or a reasonable payment made in the ordinary course of business under a bona fide retirement plan or other benefits program.

Authorizes SOS to terminate the certificate of formation of a domestic limited partnership, or revoke the registration of a foreign limited partnership, if the limited partnership performs certain actions.

Authorizes a limited partnership the certificate of formation or registration of which has been terminated or revoked to be relieved of the termination or revocation by filing a certain report, accompanied by certain filing fees.

Requires SOS, if the limited partnership pays the required fees required and all taxes, penalties, and interest due and accruing before termination or revocation, to in addition to other actions, reinstate the certificate or registration of the limited partnership without judicial ascertainment.

Provides that Sections 9.406 (Discharge of Account Debtor; Notification of Assignment; Identification and Proof of Assignment; Restrictions on Assignment of Accounts, Chattel Paper, Payment Intangibles, and Promissory Notes Ineffective) and 9.408 (Restrictions on Assignment of Promissory Notes, Health-Care-Insurance Receivables, and Certain General Intangibles Ineffective), Business and Commerce Code, do not apply to a membership interest in a limited liability company or to a partnership interest in a partnership.

Permits the enforcement, as a contract among the members of a limited liability company and among the partners of a partnership, of any provision of a company or partnership agreement that would otherwise be ineffective under Section 9.406 or 9.408, Business and Commerce Code.

Prohibits a charging order lien on a judgment debtor's membership interest or partnership interest in a company from being foreclosed on under the Business Organizations Code or any other law.

Provides that an otherwise valid contract or transaction between a real estate investment trust and certain other entities is valid notwithstanding that the trust manager or officer having the relationship or interest is present at or participates in the meeting of the trust managers or of a committee of the trust managers that authorizes the contract or transaction, or votes or signs a unanimous written consent of trust managers or committee members to authorize the contract or transaction, if the material facts as to the relationship or interest and as to the contract or transaction are disclosed to or known by certain persons and those certain persons in good faith authorize the contract or transaction by the approval of the majority of certain disinterested persons.

Requires that the certificate for an incorporated business, limited partnership, limited liability partnership, or limited liability company state a statement specifying that the registrant is a for-profit corporation, a limited liability partnership, and a foreign or domestic entity.

Deletes existing provisions requiring that the certificate state the address of the registrant's registered office in this state and the name of its registered agent at that address, and if the principal office address is not the same as the registrant's registered office address in this state.

Requires the corporation, limited partnership, limited liability partnership, limited liability company, or foreign filing entity to file the certificate in certain locations.

Authorizes the City of Midlothian, organized under the laws of this state, to apply for and accept a grant of authority to establish, operate, and maintain a foreign trade zone in Midlothian, Ellis County, adjacent to the port limits of the Dallas-Fort Worth port of entry and other subzones in Ellis County.

Amends the Texas Professional Association Act to require that a certificate from the comptroller stating that all taxes administered by the comptroller under the Tax Code, have been paid, together with the original and a copy of the articles of dissolution, be delivered to SOS.

Amends the Texas Revised Limited Partnership Act to include a certificate from the comptroller stating that all taxes administered by the comptroller under the Tax Code have been paid among the requirements for a certificate of limited partnership and the registration of a foreign limited partnership to be cancelled.

Repeals Section 2.006 (Permissible Purpose of For-Profit Corporation Related to Railroads), Business Organizations Code.

Tax Abatement Agreements in Reinvestment Zones—S.B. 1458

by Senator Seliger—House Sponsor: Representatives Swinford and Oliveira

In January 2008, Texas Attorney General Greg Abbott issued opinion GA-0600 in response to a question regarding whether a county commissioners court is prohibited from executing a tax abatement agreement with a wind turbine company for its fixtures and improvements located on a commissioner's real property. In addressing that issue, the opinion raised issues requiring clarification regarding the authority of a commissioners court to grant county tax abatements for fixtures and improvements owned by a lessee and located on taxable real property. S.B. 1458 clarifies issues raised in GA-0600 regarding the eligibility of property owned by a lessee for abatement. This bill:

Provides that Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code, expires September 1, 2019.

Authorizes the governing body of the taxing unit granting the abatement and the owner of the property that is the subject of the agreement to agree to defer the commencement of the abatement period until a date that is

subsequent to the date the agreement is entered into, except that the duration of an abatement period is prohibited from exceeding 10 years.

Authorizes the commissioners court to execute tax abatement agreements involving real property located in a reinvestment zone.

Major Events Trust Fund and Events Trust Fund—S.B. 1515

by Senator Watson—House Sponsor: Representative McCall et al.

Persons involved with the two economic development programs built primarily around sporting events—the Other Events trust fund and the Sporting Events trust fund—state that the legal language that governs these programs is overly complicated and often contradictory. The language limits the flexibility of the comptroller of public accounts (comptroller) to analyze which cities and counties might benefit from these events and limits the comptroller's ability to provide money up-front for different initiatives. Currently, the programs provide a mechanism for the state to provide incentive money, allowing cities and counties to host these events. That money is then repaid in increments of increased tax revenues that the events create. This bill:

Redefines "department," "endorsing county," "endorsing municipality," "joinder agreement," "joinder undertaking," "local organizing committee," "site selection organization," "endorsing county," "endorsing municipality," "event support contract," "event," and "site selection organization" and defines "event."

Renames the Other Events Trust Fund as the Major Events Trust Fund.

Provides that an event is eligible for funding from the Major Events Fund only if a site selection organization selects a site located in this state for the event after considering, through a highly competitive selection process, one or more sites that are not located in this state; a site selection organization selects a site in this state as the sole site for the event; and the event is held not more than one time in any year.

Requires the comptroller to determine certain incremental increases in tax receipts for a one-year period that begins two months before the date on which the event will begin, in accordance with procedures developed by the comptroller.

Requires that a request for a determination of the amount of incremental increase in tax receipts be submitted to the comptroller not earlier than one year and not later than three months before the date the event begins.

Requires the comptroller to base the determination on information submitted by the local organizing committee, endorsing municipality, or endorsing county and to make the determination not later than the 30th day after the date the comptroller receives the request and related information.

Requires the comptroller to designate as a market area for the event each area in which the comptroller determines there is a reasonable likelihood of measureable economic impact directly attributable to the preparation for the presentation of the event and related activities, including areas likely to provide venues, accommodations, and services in connection with the event based on the proposal provided by the local organizing committee to the comptroller.

Requires each endorsing municipality or endorsing county to remit to the comptroller and requires the comptroller to deposit into a trust fund created by the comptroller and designated as the Major Events trust fund the amount of the municipality's or county's hotel occupancy tax revenue determined under Subsection (b)(4) (relating to an incremental increase in the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax) or (b)(5) (relating to an incremental increase in the receipts collected by each endorsing county in the

market area from the hotel occupancy tax), less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county.

Requires the comptroller to begin retaining and depositing the local tax revenues with the first distribution of that tax revenue that occurs after the first day of the one-year period or at a time otherwise determined to be practicable by the comptroller.

Authorizes a municipality or county to remit to the comptroller for deposit in the Major Events trust fund other local funds in an amount equal to the total amount of local tax revenue determined not later than the 90th day after the last day of an event and in lieu of the local tax revenues remitted to or retained by the comptroller.

Authorizes an endorsing municipality or endorsing county to collect and remit to the comptroller surcharges and user fees attributable to the event for deposit into the Major Events trust fund.

Requires the comptroller to deposit into the Major Events trust fund a portion of the state tax revenue not to exceed the determined amount in an amount equal to 6.25 times the amount of the local revenue retained or remitted under this section, including surcharge and user fee revenue.

Requires a local organizing committee, endorsing municipality, or endorsing county, after the conclusion of an event and on the comptroller's request, to provide information relating to the event, such as attendance figures, financial information, or other public information held by the local organizing committee, endorsing municipality, or endorsing county that the comptroller considers necessary.

Requires the comptroller, not later than the 30th day after the date a request of a local organizing committee, endorsing municipality, or endorsing county is submitted to the comptroller, to provide an estimate of the total amount of tax revenue that would be deposited in the Major Events trust fund under this section in connection with that event, if the event were to be held in this state at a site selected pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county.

Authorizes the comptroller and one or more endorsing municipalities or endorsing counties, for an event that the comptroller determines will generate at least \$15 million in state and local tax revenue, to enter into agreement to provide that an amount equal to the amount of local tax revenue determined by the comptroller is required to be remitted to the comptroller by one or more endorsing municipalities or endorsing counties and is required to be deposited by the comptroller into the Major Events trust fund before the event.

Authorizes the comptroller, in the 12 months immediately preceding the event, for an event that the comptroller determines will generate at least \$15 million in state and local tax revenue, to deposit into the trust fund an amount equal to the amount the state is required to deposit under this section from certain amounts appropriated by the legislature.

Authorizes the comptroller, for an event that the comptroller determines will generate at least \$15 million in state and local tax revenue, to make disbursements from the trust fund in amounts that do not exceed the amounts deposited under this subsection in accordance with the agreement to pay costs relating to attracting and securing the event.

Authorizes an agreement that, following the last day of an event, the funds eligible for disbursement be held in the trust fund and made available to pay the cost of securing the event in future years.

Prohibits the term of such an agreement from exceeding 10 years and requires it to terminate on the final termination date provided in the agreement or if the event covered by the agreement is not held during any 18-month period covered by the agreement.

Requires that the total amount of the state's initial contribution under the agreement be repaid to the state from funds disbursed or from any other source specified in the agreement on termination of an agreement entered

Requires that an agreement entered to include terms that the comptroller determines are necessary to protect the state's interest, including a provision for a performance bond or other guarantee of repayment if the event is not held in the state after a disbursement has been made.

Requires the comptroller to deposit any amount appropriated by the legislature for certain purposes relating to certain events into the Major Event trust fund for the limited purpose of paying the costs of attracting and securing an eligible event.

Renames the Sporting Events Trust Fund as the Events Trust Fund.

Provides that an event is eligible for funding from the Events Trust Fund only if a site selection organization selects a site for the event located in this state after considering, through a highly competitive selection process, one or more sites that are not located in this state; a site selection organization selects a site in this state as the sole site for the event or the sole site for the event in a region composed of this state and one or more adjoining states; and the event is held not more than one time in this state or any adjoining state in any year.

Requires each endorsing municipality or endorsing county to remit to the comptroller and requires the comptroller to deposit into a trust fund created by the comptroller and designated as the Events Trust Fund the amount of the municipality's or county's hotel occupancy tax revenue determined under Subsection (b)(4) (relating to an incremental increase in the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax) or (5) (relating to an incremental increase in the receipts collected by each endorsing county in the market area from the hotel occupancy tax).

Requires the comptroller to begin retaining and depositing the local tax revenues with the first distribution of that tax revenue that occurs after the first day of the period or at a time otherwise determined to be practicable by the comptroller and requires the comptroller to discontinue retaining the local tax revenues when the amount of the applicable tax revenue determined has been retained.

Authorizes a municipality or county to remit to the comptroller for deposit in the Events Trust Fund other local funds in an amount equal to the total amount of local tax revenue determined not later than the 90th day after the last day of an event and in lieu of the local tax revenues remitted to or retained by the comptroller.

Authorizes an endorsing municipality or endorsing county to collect and remit to the comptroller surcharges and user fees attributable to the event for deposit into the Events Trust Fund.

Requires the comptroller to deposit into the Events Trust Fund a portion of the state revenue not to exceed the amount determined under Subsection (b)(1) (relating to the incremental increase in receipts to the state from taxes imposed under certain chapters and title within certain market areas) in an amount equal to 6.25 times the amount of the local revenue retained or remitted under this section, including surcharge and user fee revenue.

Authorizes the comptroller, in determining the amount of state revenue available under Subsection (b)(1) of this section, to consider whether the event has been held in this state on previous occasions and changes to the character of the event could affect the incremental increase in receipts collected and remitted to the state by an endorsing county or endorsing municipality under that subsection.

Authorizes the comptroller to adopt necessary rules.

Assignment of Security Interests—S.B. 1592

by Senator Fraser—House Sponsor: Representative Deshotel

S.B. 1592 is intended to clarify rather than change existing law and bring consistency to provisions of the Business and Commerce Code, the Parks and Wildlife Code, and the Transportation Code relating to the assignment of security interests and liens for certain collateral. This bill:

Provides that the filing with SOS of a utility security instrument executed by a utility and payment of the prescribed filing fee result in priority of the secured party reflected on the utility security instrument and assignees over the rights of a lien creditor for so long as the lien is recorded on the utility security instrument.

Provides that subject provisions of Chapter 261 (Utility Security Instruments), Business and Commerce Code, the filing with SOS of a utility security instrument executed by a utility and payment of the filing fee result in priority of the secured party reflected on the utility security instrument and assignees over the rights of a lien creditor, for so long as the lien is recorded on the utility security instrument.

Authorizes a secured party to assign a security interest recorded under Section 261.004 (Filing Utility Security Instrument with Secretary of State: Perfection and Notice), Business and Commerce Code, without making any filing or giving any notice under Chapter 261.

Provides that an assignee or assignor may, but need not to retain the validity, perfection, and priority of the security interest assigned, as evidence of the assignment of the security interest recorded under Section 261.004, apply to SOS for the assignee to be reflected as secured party on the utility security instrument and notify the debtor utility of the assignment.

Provides that except as provided by certain provisions of Chapter 31 (Water Safety), Parks and Wildlife Code, and except for statutory liens, security interests in a vessel or outboard motor are required to be noted on the certificate of title of the vessel or outboard motor to which the security interest applies.

Provides that on recordation of a security interest on the certificate of title, the recorded security interest owner and assignees obtain priority over the rights of a lien for so long as the security interest is recorded on the certificate of title.

Authorizes a security interest owner to assign a security interest recorded Chapter 31 without making any filing or giving any notice.

Provides that an assignee or assignor may, but need not to retain the validity, perfection, and priority of the security interest assigned, as evidence of the assignment of the security assignment recorded under Chapter 31, apply to Texas Parks and Wildlife Department or a county assessor-collector for the assignee to be named as security interest owner on the certificate of title and notify the debtor of the assignment.

Provides that for purposes of Chapter 9 (Secured Transactions), Business and Commerce Code, the time of recording a lien under Chapter 501 (Certificate of Title Act), Transportation Code, is considered to be the time of filing the security interest, and on such recordation, the recorded lienholder and assignees obtain priority over the rights of a lien creditor for so long as the lien is recorded on the certificate of title.

Authorizes a lienholder to assign a lien recorded under Section 501.113 (Recordation of Security Interest), Transportation Code, without making any filing or giving any notice under Chapter 501.

Provides that an assignee or assignor may, but need not to retain the validity, perfection, and priority of the lien assigned, as evidence of the assignment of a lien recorded under Section 501.113, apply to the county assessor-collector for the assignee to be named as lienholder on the certificate of title.

Authorizes the Texas Department of Transportation (TxDOT), on receipt of the completed application and fee, to amend TxDOT's records to substitute the assignee for the recorded lienholder.

Provides that the assignment of a lien under Chapter 501, does not affect the procedures applicable to the foreclosure of a worker's lien under Chapter 70 (Miscellaneous Liens), Property Code, or the rights of the holder of a worker's lien.

Provides that notice given to the last known lienholder of record, as provided by Chapter 70, Property Code, is adequate to allow foreclosure under that chapter.

Provides that the assignment of a lien does not affect the procedures applicable to the release of a holder's lien under Section 348.408 (Outstanding Balance Information; Payment in Full), Finance Code.

Provides that the security interest or lien assigned remains valid and perfected and retains its priority, securing the obligation assigned to the assignee, against transferees from and creditors of the debtor, including lien creditors.

Provides that failure to make application or notify a debtor or debtor utility of an assignment does not create a cause of action against the secured party reflected on the utility security instrument, the recorded lienholder, the assignor, or the assignee or affect the continuation of the perfected status of the assigned security interest in favor of the assignee against transferees from and creditors of the debtor or debtor utility, including lien creditors.

Tax Increment Financing Reinvestment Zone for the City of Conroe—S.B. 1633

by Senator Nichols—House Sponsor: Representative Creighton

S.B. 1633 is a local bracketed bill for the City of Conroe (city). Currently, the city is allowed to create a tax increment financing reinvestment zone if the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones does not exceed 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality. Increasing this percentage specifically for the city would help promote development in the county seat of one of the fastest growing counties in the state. This bill:

Prohibits a municipality from creating a reinvestment zone if the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds 20 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality is the county seat of a county that meets certain requirements.

Consistency of Certain Secretary of State Filings—S.B. 1699

by Senator Fraser—House Sponsor: Representative Giddings

Currently, there is a lack of uniformity in filing requirements for certain transactions with the office of the secretary of state (SOS). Consistency among similar statutes administered by the same division at SOS eases the public's burden of compliance as well as the burden of administration for SOS. This bill:

Provides that the fee for filing and indexing a record is a certain amount based on the medium and length of the record communication and that the fee for filing and indexing an initial financing statement of certain kinds is \$60 if the debtor is a transmitting utility.

Provides that the amount of the fee for a certificate of filing for a utility security instrument is the same as the amount of the fee provided by Section 9.525(d) (relating to the fee for responding to a request for information from the filing office), if the request for the certificate is in the standard form prescribed by SOS, or \$25, if the request is not in the standard form.

Provides that the fee for a copy of a utility security instrument filed with the secretary of state is in the amount provided by Section 405.031 (General Fees), Government Code but not less than \$5 or more than \$100 for each request concerning a particular utility.

Provides that the amount of the fee for a certificate of an agricultural chemical and seed lien or animal feed lien is the same as the amount of the fee provided by Section 9.525(d), Business and Commerce Code.

Provides that the fee for a copy of a notice of claim of an agricultural chemical and seed lien or animal feed lien obtained is in the amount provided by Section 405.031, Government Code.

Requires a filing officer, upon request of any person, to issue a certificate showing whether there is on file, on a date and time specified by the filing office, any notice of lien or certificate or notice affecting any lien filed under Chapter 14 (Uniform Federal Lien Registration Act), Property Code, or filed under Subchapter C (Uniform Federal Tax Lien Registration Act), Chapter 113 (Tax Liens), Tax Code, on or after January 1, 1972, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate.

Provides that the amount of the fee for a certificate identifying any notice of lien or certificate is the same as the amount of the fee provided by Section 9.25(d), Business and Commerce Code, and that the fee for a copy of such a certificate is in the amount provided by Section 405.031, Government Code.

Provides that Section 9.523 (Information from Filing Office; Sale or License of Records), Business and Commerce Code, applies to a federal lien filed under Chapter 14, Property Code.

Franchise Arrangements Defined Under the Business Opportunity Act—S.B. 1701

by Senator Fraser—House Sponsor: Representative Giddings

Under The Business Opportunity Act, Chapter 51, Business and Commerce Code, the term "business opportunity" does not include a franchise arrangement. The definition of business opportunity not including an arrangement defined as a franchise refers to C.F.R. Section 436.2(a) for the definition of "franchise." The United States Congress amended and reorganized Part 436 of 16 C.F.R., effective in 2008. The definition of franchise was condensed and is now located in 16 C.F.R. Section 436.1(h). This bill:

Redefines "business opportunity," to exclude an arrangement defined as a franchise by 16 C.F.R. Part 436 and its subsequent amendments under certain circumstances.

Media Production Development Zones—S.B. 1929

by Senators Watson and West—House Sponsor: Representative Anchia

According to the Texas Motion Picture Alliance, the moving image industry has brought more than \$1.2 billion dollars to Texas in the past 10 years. Texas is working to maintain and strengthen its film production industry in the face of strong competition from other states. However, about 25 percent of Texas-based film professionals are currently working in New Mexico and Louisiana. Texas has lost approximately 7,000 crew positions and \$500 million in production spending to states with more competitive film incentives. Designating qualified media production locations

and providing sales and use tax exemptions for items used for media production facilities helps promote the film industry in this state. This bill:

Amends Subtitle F, Title 4, Government Code, by adding Chapter 485A (Media Production Development Zones).

Defines "medical production facility," "media production development zone," "moving image project," "nominating body," "office," "qualified media production location," "qualified person," "qualified person" and "qualified media production location."

Requires the Music, Film, Television, and Multimedia Office (office) to administer and monitor the implementation of Chapter 485A.

Requires the office and the comptroller of public accounts (comptroller) to jointly establish criteria and procedures for approving a qualified area recognized as a media production development zone (development zone) by a nominating body; designating a qualified location in a development zone as a qualified media production location; and certifying a person as a qualified person.

Requires the office to adopt necessary rules.

Requires the office, on or before December 15 of each year, to submit to the governor, the legislature, and the Legislative Budget Board a report that evaluates the effectiveness of the development zone program and describes the use of state and local incentives under Chapter 485A and their effect on revenue.

Requires the office to provide to persons desiring to construct, expand, maintain, improve, or renovate a media production facility in a qualified media production location information and appropriate assistance relating to the required legal authorization, including a permit, certificate, approval, and registration, necessary in this state to accomplish that objective.

Provides that an area, to be approved as a development zone, is required to be in a metropolitan statistical area, the principal municipality of which has a population of more than 250,000 and has adequate workforce, infrastructure, facilities, or resources to support the production and completion of moving image projects; is required to be recognized as a development zone by ordinance or order, as appropriate, of a municipality or the commissioners court of a county; and will contain a qualified media production location within its geographical boundaries that meets certain criteria.

Requires that a location, to be designated a qualified media production location, be land or other real property that is in a media production development zone and will be used exclusively to build or construct one or more media production facilities, if the real property is a building or other facility, be renovated solely for the purpose of being converted into one or more media production facilities; or if the real property consists solely of one or more media production facilities, be improved or renovated for that purpose or be expanded into one or more additional media production facilities.

Prohibits there being more than 10 development zone designations under this chapter at any one time.

Prohibits there being more than five development zone designations under this chapter in a region at any one time.

Provides that each development zone may contain not more than three media production locations at any one time.

Requires the office to divide the state into regions consisting of geographical boundaries prescribed by office rule.

Authorizes the governing body of a municipality or county, individually or in combination with other municipalities or counties, by ordinance or order, as appropriate, to nominate as a qualified media production location a location within its jurisdiction that meets the criteria.

Prohibits the governing body of a county from nominating territory in a municipality, including extraterritorial jurisdiction of a municipality, from being included in a proposed qualified media production location unless the governing body of the municipality also nominates the territory and together with the county files a joint application.

Requires an ordinance or order nominating a location as a qualified media production location to describe precisely both the media production development zone in which the location is to be included and the proposed location by a legal description or reference to municipal or county boundaries; state a finding that the location meets the requirements of this chapter and that the development zone in which the location is to be included has been recognized as a zone by ordinance or order, as appropriate, by the nominating body; summarize briefly the local financial incentives, including tax incentives, that, at the election of the nominating body, will apply to a qualified person; contain a brief description of the project or activity to be conducted by a qualified person at the location; nominate the location as a qualified media production location; and contain an economic impact analysis from an economic expert.

Requires the nominating body, for a location in a development zone to be designated as a qualified media production location, after nominating the location as a qualified media production location, to send to the office a written application for designation of the location in the zone as a qualified media production location and require that the application include certain information.

Sets forth the composition of the media production advisory committee (advisory committee).

Requires the comptroller, in making appointments to the advisory committee, to provide for a balanced representation of the different geographic regions of this state.

Requires the advisory committee, through review of applications submitted, to make recommendations to the office for designation of qualified media production locations under this subchapter.

Authorizes the office to provide administrative support to the advisory committee.

Requires the office, on receipt of an application for the designation of a qualified media production location, to review the application to determine whether the nominated location qualifies for designation as a qualified media production location under this chapter.

Requires the office to consider recommendations submitted by the media production advisory committee with respect to applications received by the office.

Authorizes the office to designate the nominated location as a qualified media production location unless the office determines that the designation request should be denied for the reasons specified.

Prohibits a designation of a qualified media production location from being made until the comptroller, based on an evaluation of the economic analysis, certifies that the project or activity to be conducted at the designated location will have a positive impact on state revenue.

Requires the office, on designation of the first qualified media production location in a development zone recognized by the nominating body for that purpose, to simultaneously approve the development zone.

Requires the office to deny an application for the designation of a qualified media production location if the office determines that the nominated location does not satisfy certain criteria; the office determines that the number of media production location designations or number of approved development zones at the time of the application are at the maximum limit prescribed; or the comptroller has not certified that the proposed project or activity to be conducted at the location will have a positive impact on state revenue.

Requires the office to inform the nominating body of the specific reasons for denial of an application.

Authorizes an area that qualifies under this subchapter to be approved by the office as a development zone for a maximum of five years after the date the last qualified media production location was designated within the development zone's boundaries.

Authorizes a location to be designated as a qualified media production location and to be eligible for the sales and use tax exemption for a maximum of two years.

Authorizes the office to remove the approval of an area recognized as a development zone if the area no longer meets the criteria for that recognition.

Authorizes the office to remove the designation of a location as a qualified media production location if the location no longer meets the criteria for that designation.

Requires the governing body of a qualified media production location, not later than October 1 of each year, to submit to the office a report in the form prescribed by the office, and sets forth information for the year preceding the date of the report that is required to be included in the report.

Provides that a person is a qualified person if the office, for the purpose of state benefits under Chapter 485A, or the nominating body of a qualified media production location, for the purpose of local benefits, certifies that the person, not later than 18 months after the date of the designation will build or construct one or more media production facilities at a location, will renovate a building or facility solely for the purpose of being converted into one or more media production facilities at a location, or will renovate or expand one or more media production facilities at a location.

Requires the office, if the office determines that the nominating body of a qualified media production location is not complying with this chapter, to prohibit the certification of a qualified person in the location until the office determines that the nominating body is complying with Chapter 485A.

Provides that the office's certification of a person as a qualified person, except as provided, is effective until the second anniversary of the date the designation is made, regardless of whether the designation of the qualified media production location at which the qualified person is to perform its commitments under this chapter is terminated before the date.

Requires the office to remove the certification of a qualified person for state benefits under Chapter 458A if the office determines that the construction, renovation, improvement, maintenance, or expansion of a media production facility has not been completed in the qualified production location for which it has received its certification within the described period.

Provides that certain items are exempt from the sales and use tax.

Authorizes the office to monitor a qualified person to determine whether and to what extent the qualified person has followed through on the commitments made by the qualified person.

Authorizes the office to determine that the qualified person is not entitled to a tax exemption, if the office determines that the qualified person is not willing to cooperate with the office in providing information needed by the office to make the determination, has substantially failed to follow through on the commitments made by the person under this chapter before the first anniversary of the date of the qualified media production location designation, or fails to submit the required report.

Provides that the sale, lease, or rental of a taxable item to a qualified person is exempted from the taxes imposed by this chapter for a maximum of two years if the item is used for the construction, maintenance, expansion, improvement, or renovation of media production facility at a qualified media production location; to equip a media production facility at a qualified media production location; or for the renovation of a building or facility at the qualified media production location that is to be used exclusively as a media production facility.

Requires a qualified person to submit an annual report to the comptroller regarding the sale, lease, or rental of taxable items for which a tax exemption is granted to the qualified person under this section.

Retail Installment Contracts for Commercial Vehicles—S.B. 1965

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

Some of the provisions in the Finance Code that are currently applicable to motor vehicle installment contracts are not appropriate for contracts with commercial buyers purchasing vehicles for commercial use. Currently, the provisions in Chapter 348 (Motor Vehicle Installment Sales) prevent commercial buyers from contracting for services pertaining to commercial uses that would not be relevant to a consumer purchase. This bill:

Provides that collateral protection insurance does not include insurance coverage that is insurance on a commercial vehicle securing a retail installment contract under Chapter 348 (Motor Vehicle Installment Sales), Finance Code.

Requires a contract for a loan under Chapter 342 (Consumer Loans), Finance Code, a retail installment transaction under Chapter 348 other than a contract for a commercial vehicle, or a home equity loan regulated by the Office of Consumer Credit Commissioner to be written in plain language designed to be easily understood by the average consumer and printed in an easily readable font and type size.

Defines "commercial vehicle."

Authorizes certain amounts to be included as an itemized charge or in the cash price in a retail installment contract for a commercial vehicle.

Provides that for a documentary fee to be included in the principal balance of a retail installment contract, the buyer's order and the retail installment contract, except for a buyer's order or a retail installment contract for a commercial vehicle, is required to include certain notice provisions.

Requires the retail seller, except for a retail installment contract for a commercial vehicle, if the language primarily used in an oral sales presentation is not the same as the language in which the retail installment contract is written, to furnish to the retail buyer a written statement in the language primarily used in the oral sales presentation.

Provides that a retail installment transaction in which a retail buyer purchases a commercial vehicle is only subject to certain provisions of Chapter 348, Finance Code.

Prohibits a retail installment contract from authorizing the holder to accelerate the maturity of all or a part of the amount owed under the contract unless, if the retail installment contract is for a commercial vehicle, the retail buyer

or an affiliate of the retail buyer is in default in its obligations under another financing agreement or leasing agreement held by the same holder or an affiliate of the holder.

Authorizes a retail installment contract for a commercial vehicle, in addition to other charges for insurance coverage, to include a charge for insurance coverage relating to the commercial vehicle; the use of the commercial vehicle; or the retail installment contract.

Authorizes such insurance coverage be provided only by an authorized insurer or an eligible surplus lines insurer.

Requires a retail installment contract for a commercial vehicle to set forth the amount of each charge for insurance coverage and the type of the coverage provided for that charge.

Requires a policy of insurance obtained after the date of the retail installment transaction to comply with the applicable requirements.

Debt Cancellation Agreements for Certain Contracts—S.B. 1966

by Senator Harris—House Sponsor: Representative Hopson

Currently, nationally chartered banks offer debt cancellation and suspension contracts, which are considered a part of the loan itself, not insurance. Since federal law authorizes nationally chartered banks to offer these services, under parity rules, Section 93.008 (Powers Relative to Other Financial Institutions), Finance Code, states that commercial and savings banks have similar authority.

In 2003, the Texas Legislature authorized lenders under Chapter 342 (Consumer Loans), Finance Code, to offer a debt suspension agreement or debt cancellation agreement to customers. The Texas Finance Code has no provisions allowing lenders under Chapter 348 (Motor Vehicle Installment Sales) to offer customers similar agreements. This bill:

Authorizes a retail seller, in connection with a retail installment transaction under Chapter 348, to offer to the retail buyer a debt cancellation agreement.

Prohibits the retail seller from requiring that the purchase of a debt cancellation agreement by the retail buyer be made in order to enter into a retail installment transaction.

Provides that a debt cancellation agreement is not considered an insurance product.

Requires that the amount charged for a debt cancellation agreement made in connection with a retail installment contract be reasonable.

Requires the retail seller, in addition to other disclosures required by state or federal law, to provide to the retail buyer a separate notice in connection with the retail installment contract stating that the retail buyer is not required to accept or provide a debt cancellation agreement in order to purchase the motor vehicle under a retail installment contract.

Authorizes a retail installment contract to include as a separate charge an amount for a debt cancellation agreement if the agreement is included as a term of a retail installment contract.

Provides that, notwithstanding any other law, service contracts and debt cancellation agreements sold by a retail seller of a motor vehicle to a retail buyer are not subject to Chapter 101 (Unauthorized Insurance) or 226 (Unauthorized and Independently Procured Insurance Premium Tax), Insurance Code.

Alcoholic Beverage Product Instruction Events—S.B. 2558 [VETOED]

by Senator Gallegos—House Sponsor: Representative Thompson

Currently, the Alcoholic Beverage Code does not contain language which defines or identifies product instruction events, which are intended to instruct customers and retailer employees of legal drinking age on the history, quality, characteristics, presentation, or serving of malt beverages. This bill:

Defines "product instruction event."

Authorizes a holder of a manufacturer's license, nonresident manufacturer's license, brewer's permit, nonresident brewer's permit, nonresident seller's permit, general distributor's license, local distributor's license, wholesaler's permit, Class B wholesaler's permit, agent's beer license, agent's permit, or manufacturer's agent's permit, or the license or permit holder's agent, representative, or employee, to conduct product instruction events in order to promote the license or permit holder's malt beverages.

Provides that a product instruction event is required to be conducted during normal business hours, and is prohibited from exceeding four hours in length.

Authorizes the license or permit holder conducting a product instruction event to open, touch, pour, and serve only malt beverages that the license or permit holder manufactures or is authorized to distribute.

Requires the license or permit holder conducting the product instruction event to purchase all malt beverages used in the event from the retailer.

Prohibits the retailer from charging the license or permit holder more than the price the retailer charges a consumer for the beverages.

Authorizes a product instruction event to be prearranged with and preannounced to a retailer.

Prohibits a product instruction event from being preannounced to a consumer.

Authorizes a retailer to host not more than two product instruction events each calendar year.

Actions Under the Beer Industry Fair Dealing Law—S.B. 2580

by Senator Lucio—House Sponsor: Representative Geren

Chapter 102 (Intra-Industry Relationships), Alcoholic Beverage Code, allows for a two-year statute of limitations. A civil action brought before the San Antonio Court of Appeals raised uncertainty about this statute of limitations. It was assumed that the issue was a contract dispute, allowing four years to bring the action. The court, however, ruled that the action should be treated as a tort and was therefore subject to a two-year statute of limitations. This bill:

Provides that the protections provided to beer distributors by Subchapters C (Territorial Limits on Sale of Beer) and D (Beer Industry Fair Dealing Law), Alcoholic Beverage Code, apply regardless of whether there is a transfer or change of ownership of a brand at the manufacturing level.

Requires a person to bring suit on an action arising under Chapter 102 not later than four years after the day the cause of action accrues.

Provides that if a termination related to a change in ownership of the brand occurs, the cause of action accrues when either the new brand owner or the transferring or selling brand owner provides notice of termination to the distributor.

Higher Education Funding and Accountability—H.B. 51

by Representative Branch—Senate Sponsor: Senators Zaffirini and Mike Jackson

This legislation creates certain funds to provide incentives to institutions of higher education to perform at a higher level and to create additional national research universities in Texas. The performance funding is not intended to supplant base formula funding but rather to serve as a supplement. Currently, there are three "tier one" institutions in Texas: The University of Texas at Austin, Texas A&M University, and Rice University. In comparison, there are nine and five tier one institutions in California and New York, respectively. Tier one institutions bring together a critical mass of talent and enrich the area they are located. Texas loses out in federal research funding, venture capital, top students, high quality faculty, researchers, and scientists, by not having more tier one institutions. As there are no current statutes to support, aid, and encourage "emerging research universities" and create tier one higher education institutions, this legislation would create new programs and enhance an existing program to promote this effort.

The University of Texas Medical Branch at Galveston and Texas A&M University at Galveston sustained significant damage to their facilities during Hurricane Ike in September of 2008. This legislation authorizes the issuance of \$150 million in tuition revenue bonds to the institutions for disaster-related costs and expenditures.

The Higher Education Fund was created by constitutional amendment as a counterpart to the Permanent University Fund for Texas public institutions of higher education not eligible to receive funds from the Permanent University Fund. Distributions are made to eligible institutions via formula allocation based on space deficit, facility condition, and institutional complexity. This legislation amends allocations in the Higher Education Fund and establishes the National Research University Fund to replace the Higher Education Fund contingent upon approval by voters of a constitutional amendment regarding the change.

Finally, researchers currently have no easy way of knowing what their counterparts across Texas, or even across campus, are doing. This makes it more difficult for researchers with a range of perspectives and backgrounds to work together on projects, which can limit the scope of the research or hinder the completion and commercialization of that work. A searchable database of research being conducted across the state may enhance the applicability of and collaboration on a number of important research projects that could benefit the State of Texas. This legislation includes the creation of an interim committee to study the feasibility of creating such a database. This bill:

Requires certain institutions of higher education designated as research universities or emerging research universities by the Texas Higher Education Coordinating Board (THECB) to submit a long-term strategic plan to describe their plan to achieve recognition as or enhance their reputation as research universities.

Authorizes the board of regents of Texas A&M University at Galveston and the board of regents of The University of Texas Medical Branch at Galveston to take certain measures to recover from any damage caused by Hurricane Ike to be financed by the issuance of bonds.

Requires THECB to administer certain incentive grants to assist general academic teaching institutions, other than public state colleges, that are not research universities or emerging research universities to develop and maintain specific programs or fields of study of the highest national rank or recognition. Requires THECB to determine the benchmarks that will be used to determine an institution's eligibility for these grants.

Requires THECB to review at least once every 10 years criteria for and definitions of institutional groupings under the accountability system.

Amends annual allocations of the Higher Education Fund to eligible agencies and institutions of higher education. Creates the Research University Development Fund to provide funding to research universities and emerging research universities for recruiting and retaining highly qualified faculty and enhancing research productivity and requires THECB to distribute certain amounts appropriated by the legislature for this fund.

Requires THECB to distribute certain amounts appropriated by the legislature for performance incentive funding to general academic teaching institutions, other than public state colleges, based on the number and type of degrees awarded.

Requires THECB to develop and administer the Texas Research Incentive Program to match funds to assist emerging research universities in leveraging private gifts to enhance research productivity and faculty recruitment.

Requires the comptroller of public accounts to administer and invest funds from the national research university fund; and sets forth eligibility requirements, allocation procedures, and acceptable uses of funds. Provides that these provisions are effective only if the voters approve measures proposed by H.J.R. 14.

Repeals sections of the Education Code that address the management of the Higher Education Fund by the comptroller of public accounts. Provides that these sections are not repealed if voters do not approve the constitutional amendments set forth in H.J.R. 14.

Provides that Lamar Institute of Technology is independent of Lamar University.

Creates a select interim committee to study the feasibility maintaining a searchable electronic database relating to specialized technology research projects at Texas public universities and other certain research facilities, and sets forth certain duties and deadlines for the committee.

Requires THECB to make recommendations regarding appropriate definitions and categories of research expenditures related to the Research University Development Fund.

Advanced Research Program Eligibility—H.B. 58

by Representative Branch—Senate Sponsor: Senators Averitt and Zaffirini

The Advanced Research Program, administered by the Texas Higher Education Coordinating Board, was created in 1987 by the 70th Legislature to award grants to faculty members at eligible institutions to promote and fund basic research in certain disciplines, including astronomy, atmospheric science, biological and behavioral sciences, chemistry, computer sciences, earth sciences, engineering, information science, mathematics, material sciences, oceanography, physics, environmental issues affecting the Texas-Mexico border region, the reduction of industrial, agricultural, and domestic water use, social sciences, and related disciplines.

An eligible institution was previously defined as any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education. This bill:

Redefines "eligible institution" to include a private or independent college or university that is organized under the Texas Non-Profit Corporation Act; exempt from taxation; and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, or the American Bar Association.

Adjustment to the Credit Hour Count in the Funding Formula—H.B. 101

by Representative Fred Brown—Senate Sponsor: Senator Uresti

Current state law does not allow state funding for semester credit hours earned by an undergraduate student who attempts more than 30 credit hours in excess of the number of courses required to complete the student's degree program. This unintentionally affects funding for students who earned semester credit hours before graduating from high school by completing dual-credit courses. This bill:

Provides that semester credit hours earned by a student before graduating from high school and used to satisfy high school graduation requirements do not count when calculating an institution's appropriation from the state using the higher education funding formula.

Health Benefit Plans for Students at Institutions of Higher Education—H.B. 103 [VETOED]

by Representative Fred Brown—Senate Sponsor: Senator Dan Patrick

Approximately 70 percent of Texas college students have full health insurance coverage. However, student health centers at institutions of higher education typically do not file claims to students' insurance providers for services students receive at student health centers. This bill:

Requires student health centers at institutions of higher education with enrollment of more than 20,000 students to offer one or more health benefits plans, of which one must be a high deductible plan.

Requires student health centers at such institutions to accept and process private health insurance and file claims, either through student health center administration or by contracting with a third-party billing service, for students who are covered by insurance.

Requires such institutions to contract with at least three of the largest health benefit plan issuers that operate in each institution's health service region established by the Department of State Health Services as a preferred provider or operator of in-network coverage.

Authorizes such institutions to allow their student health centers to accept a student's medical services fee as payment for a copayment, deductible, or other charge for a service that is not covered by the student's insurance provider.

Student Loan Repayment Pilot Program for Certain Persons—H.B. 518 [VETOED]

by Representative Kolkhorst et al.—Senate Sponsor: Senator Van De Putte

The Texas Department of Criminal Justice (TDCJ) often has difficulty recruiting and retaining correctional officers. Texas also currently has a shortage of speech-language pathologists, audiologists, science teachers, and mathematics teachers who choose to seek employment in the public school system. This bill:

Establishes a pilot student loan repayment program, administered by the Texas Higher Education Coordinating Board (THECB), to provide assistance in the repayment of student loans for certain correctional officers, for certain speech-language pathologists and audiologists, and for certain mathematics and science teachers.

Sets forth certain eligibility and repayment requirements regarding the pilot program.

Requires THECB to evaluate the effectiveness of the pilot program and report the results of the evaluation to the legislature not later than December 31 of each even-numbered year.

Permits the program to be expanded, if it is deemed successful by THECB.

Midwestern State University as a Public Liberal Arts University—H.B. 602

by Representative Farabee—Senate Sponsor: Senator Estes

Midwestern State University (MSU) is a public liberal arts university, but is designated in statute as a state college. MSU became the first and only Texas university member of the Council of Public Liberal Arts Colleges in the summer of 2006. The students, faculty, and administration of MSU believe that this identifiable niche for the university will bring continued positive recognition. This action has the support of the faculty, student body, administration, and the board of regents of MSU. This bill:

Requires the board of regents of MSU to build and operate a public liberal arts university to prepare students for excellence in a variety of careers and exploration of a variety of interests.

Classroom and Facility Use by Public Junior Colleges—H.B. 746

by Representative Fred Brown et al.—Senate Sponsor: Senator Dan Patrick

Currently, Texas lacks the classroom capacity to serve all citizens seeking higher education. Classroom space is lacking at all levels of postsecondary education, including collegiate, continuing, technical, and vocational education. Many municipal and regional community colleges must either levy local taxes or undertake costly bond proposals in order to build enough classroom facilities to meet the educational demands of their communities. This bill:

Authorizes a public institution of higher education to make classrooms available at certain times to public junior colleges to teach courses in the core curriculum or continuing education courses for the duration of the semester or academic term.

Authorizes the institution of higher education to charge for the use of the classroom in an amount not to exceed the rate determined by the Texas Higher Education Coordinating Board.

Purchasing of Library Goods and Services by Public Junior Colleges—H.B. 962

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Texas law regulates purchases by state agencies, including institutions of higher education. Since 1995, some Texas institutions of higher education have been able to make purchases and acquisitions of library goods and services without conforming to the statutory purchasing methods.

In 1999, S.B. 1363 by Senator Chris Harris extended this exemption to junior colleges in Texas. The intent of this legislation, as indicated by the bill analysis, was to provide the exemption to junior colleges. Determining the applicability of the exemption, however, requires interpretation of several statutes and has proven to be confusing to junior colleges. This bill:

Provides that certain statutory rules and procedures related to purchases and contracts do not apply to the purchase, acquisition, or license of library goods and services by public junior colleges.

Redefines "library goods and services" to include certain electronic media, supplies, and library or resource-sharing programs.

Making the University of Houston-Victoria a Four-Year University—H.B. 1056

by Representative Morrison—Senate Sponsor: Senator Hegar

The University of Houston-Victoria was established in 1973, a time when upper-division universities were established to provide access to bachelor's and master's degrees by offering junior, senior, and graduate level courses. These upper-level institutions, by design, were commuter schools with undergraduate enrollment limited to transfer students from area community colleges. While the upper-level model was a good starting point, eventually it was uniformly abandoned through a process called "downward expansion," or the lifting of restrictions for the admission of freshman and sophomore students. It became clear that the upper-level model did not allow the university to reach its full potential in terms of numbers of students, diversity of students, richness of learning and efficient use of faculty and facilities. This bill:

Deletes provisions that limit the University of Houston-Victoria to offering only junior, senior, and graduate level courses and to enrolling students who have completed at least 30 semester credit hours and who are concurrently enrolled in another institution of higher education.

Providing Notice to Students Related to Purchasing Textbooks—H.B. 1096

by Representatives Vo and Quintanilla—Senate Sponsor: Senator Van de Putte

Incoming students at Texas universities can be unaware of the available options for acquiring textbooks. Some students assume that they must purchase required textbooks from a university-affiliated bookstore and are not informed of less costly options to acquiring the required course materials. This bill:

Requires each institution of higher education to provide certain information to current and prospective students regarding the availability of required or recommended textbooks through university-affiliated bookstores and through other retailers.

Requires the Texas Higher Education Coordinating Board to adopt rules and prescribe procedures relating to the notice required to be provided to students regarding purchasing textbooks.

Associate of Science Degrees at Texas State Technical College Harlingen—H.B. 1325

by Representative Rios Ybarra et al.—Senate Sponsor: Senator Lucio

Texas State Technical College (TSTC) Harlingen desires to offer an associate of science (AS) degree to complement its legislated mission to offer advanced and emerging associate degrees for areas of need in the State of Texas and to facilitate maximum upward articulation of TSTC--Harlingen graduates to bachelor of science (BS) degrees in science, technology, engineering, and math (STEM) disciplines at Texas universities. Approval of this request builds the capacity for state and national STEM graduates in designated high-growth, high-demand job disciplines.

Currently, Chapter 135 (Texas State Technical College System), Education Code, restricts TSTC--Harlingen to providing only associate of applied science (AAS) degrees and certificate offerings. Even though TSTC satisfies the academic requirements for offering an AS degree and could do so without any additional cost, it is precluded from offering the AS degree simply due to the apparent restrictions in Chapter 135. The state's accrediting agency, the Southern Association of Colleges and Schools (SACS), has confirmed that TSTC--Harlingen possesses the academic course inventory and the credentialed faculty necessary to effectively and economically offer such degrees. According to SACS, under the standards applied to all higher education institutions in Texas, TSTC--Harlingen is authorized to offer all levels of associate degrees but needs to obtain approval from the Texas Higher Education Coordinating Board (THECB). The THECB does not dispute SACS's position on TSTC--Harlingen's qualifications but interprets Chapter 135 to be a restriction on the AS offering. This bill:

Authorizes the board of regents of the TSTC System to offer and award an AS degree at TSTC--Harlingen if THECB determines that the degree meets certain conditions.

Tuition and Fee Exemption for Junior College District Employees—H.B. 1568

by Representatives Gonzales and Guillen—Senate Sponsor: Senators Zaffirini and Hinojosa

South Texas College in McAllen, Texas, is exploring the possibility of waiving tuition and fees for its employees. However, current law restricts a community college in Texas from waiving such tuition and fees, although a four-year university is allowed to do so. This bill:

Authorizes the governing board of a junior college to exempt district employees from paying all or part of tuition and fees.

Grant Programs to Support Education and Workforce Development—H.B. 1935

by Representative Villarreal et al.—Senate Sponsor: Senators Duncan and Hinojosa

Texas Works 2008: Training and Education for All Texans, a report by the comptroller of public accounts (comptroller), states that Texas faces growing shortages of the skilled workers that help attract and retain business. According to the U.S. Department of Education, 90 percent of the fastest-growing jobs in the new information and service economy will require some postsecondary education. This legislation establishes a grant program to counter the shortages by providing grants to public junior colleges, public technical institutes, and eligible nonprofits that foster workforce development in emerging industries and high-demand occupations. In addition, the comptroller is authorized to award scholarships to public junior college or public technical institute students who demonstrate a financial need and are training for a high-demand occupation.

There is also a tremendous economic opportunity from renewable energy and energy efficiency in Texas. According to the Governor's State Energy Plan, two-thirds of jobs created in the energy sector over the next decade will be in the area of renewable energy. There is likely to be an even larger opportunity from energy efficiency. Green jobs are defined as jobs involving energy-efficient construction or retrofitting, renewable electric power, biofuels, recycling, energy efficiency assessments, manufacturing of sustainable products, and manufacturing using sustainable processes. This bill:

Requires the comptroller to establish and administer the Jobs and Education for Texas (JET) fund as a dedicated account in the general revenue fund to provide grants to public junior colleges, public technical institutes, and eligible nonprofit organizations to provide scholarships to certain students, prepare low-income students for careers in high-demand jobs, and to defray startup costs associated with the development of new career and technical education programs.

Creates an advisory board of education and workforce stakeholders to assist the comptroller in administering the JET fund.

Sets forth eligibility requirements that students, nonprofit organizations, and colleges must meet to receive grants from the JET fund.

Requires the comptroller to conduct a study relating to a cost-benefit analysis of the outcomes from the JET fund and to make recommendations based on the study not later than January 1, 2011.

Requires the comptroller to establish a green jobs skills grant program, funded by the Texas Green Job Skills Development fund created in this bill as an account in the general revenue fund, to award grants in cooperation with

the Texas Workforce Commission through the State Energy Conservation Office for the implementation, expansion, and operation of green job skills training program.

Sets forth certain requirements of the green job skills grant program related to the funding of training programs for certain individuals in the workforce.

Requires the comptroller, in determining the recipients of the awards, to give preference to training programs that provide certification and a career advancement mechanism, to leverage additional public and private resources to fund the program, and to make certain that grants are awarded in a manner that ensures geographic diversity.

Requires 20 percent of the funds available for the green job skills grant program to be reserved for job skills training programs that serve the unemployed and individuals whose incomes are at or below 200 percent of the federal poverty level.

Requires grant recipients to submit a report no later than October 1 of each even-numbered year containing certain information about the provided services, participants, and outcomes to the comptroller no later than 30 days after the date that funding ends; and requires the comptroller to submit a report to the governor, lieutenant governor, and speaker of the house of representatives that includes a summary of all the information submitted by grant recipients.

Provides that grants provided through the Texas Adult Career Education Grant Program, established under Section 403.351, Government Code, may only benefit a permanent legal resident or citizen of the United States. [Note: No such program is established under Section 403.351, Government Code.]

Tuition and Fee Exemptions for Volunteer Firefighters—H.B. 2013

by Representative Keffer et al.—Senate Sponsor: Senator Hegar

The training required in order to be awarded a Texas Commission on Fire Protection Basic Structural certification mirrors the training required to be awarded a State Firemen's and Fire Marshal's Association of Texas (SFFMA) Advanced Accredited Volunteer certification or the Phase V (Firefighter II) certification under the Texas Commission on Fire Protection. Testing is included in the SFFMA program. To date, approximately 1,200 persons have been certified under the SFFMA program. Approximately half of those certified no longer maintain their certification with the SFFMA. Many such persons were graduates of a firefighting academy, applied for and received SFFMA certification, and, after taking paid firefighting jobs, are no longer in the volunteer service. To date, the Texas Commission on Fire Protection has awarded 14 Phase IV (Firefighter II) volunteer certifications.

A tuition and fee exemption for volunteer firefighters with certain certifications who are enrolled in fire science courses would increase volunteer firefighter retention and would be an incentive for volunteer firefighters to achieve the advanced certification. H.B. 2013 extends an existing laboratory and tuition fee exemption for a student employed as a firefighter who is enrolled in a fire science course at an institution of higher education to a student enrolled in such a course who is an active member of a volunteer fire department in Texas and who holds an Accredited Advanced level of certification or Phase V (Firefighter II) certification. This bill:

Requires the governing board of an institution of higher education to exempt from payment of tuition and laboratory fees for certain courses beginning with the 2009 fall semester for a student who is currently, and has been for at least one year, an active member of an organized volunteer fire department in this state.

Physician Education Loan Repayment Program—H.B. 2154*by Representative Edwards—Senate Sponsor: Senator Hinojosa et al.*

Texas has a shortage of health care providers. For several years, the Office of the Comptroller of Public Accounts has had to set aside millions of dollars for refunds because of the ambiguity created by an ad valorem taxation method on smokeless tobacco. This bill:

Establishes a weight-based smokeless tobacco taxation method to bring the taxation of smokeless tobacco in line with taxation methods for other tobacco products.

Creates a new health care access fund and a consolidated program for loan repayment to expand access to health care by increasing the provider workforce and expanding the Federally Qualified Healthcare Centers' infrastructure in underserved areas.

Provides that revenue derived from the change in the law relating to tax on tobacco products will be appropriated for the fund's purposes.

Tuition and Fee Exemptions for Peace Officers and Educational Aides—H.B. 2347*by Representatives Thibaut and Guillen—Senate Sponsor: Senator Whitmire*

Currently, firefighters are exempt from the payment of tuition and fees to state institutions of higher education for courses that are part of a fire science curriculum. There is no similar exemption for peace officers who are enrolled in courses related to a criminal justice or law enforcement management curriculum. In an effort to improve the law enforcement profession, many believe that Texas peace officers should be encouraged to receive a college education. Providing a tuition and laboratory fee exemption would enable more officers to obtain better training and education.

Current law also authorizes tuition and fee exemptions for certain educational aides enrolled in higher education courses for teacher certification. However, there is disagreement between institutions of higher education and the Texas Higher Education Coordinating Board (THECB) regarding exemption applications. An exemption application must be initiated by the educational aide's employing school district, which then forwards it to the institution of higher education at which the aide is enrolled. Subsequently, the institution completes a portion of the form and then forwards it to THECB which then must determine eligibility and advise the institution of higher education and school district regarding eligibility. The institution of higher education must then respond to THECB with a recommended award amount before THECB can offer reimbursement. This bill:

Requires the governing board of an institution of higher education to exempt from payment of tuition and laboratory fees for certain courses beginning with the 2011 fall semester for undergraduate students who are employed as peace officers and meet certain conditions.

Requires the governing board of an institution of higher education to report to the Senate Finance Committee and the House Appropriations Committee the cost to the institution of complying with this section if sufficient funds are not appropriated.

Requires the institution of higher education at which an educational aide seeking a tuition and fees exemption applicable beginning with the 2009 fall semester is enrolled to certify the person's eligibility and requires the institution of higher education to make the determination of eligibility and give notice of its determination to the applicant and to the school district employing the applicant as an educational aide.

Admissions Standards for Lamar State Colleges—H.B. 2424

by Representative Morrison et al.—Senate Sponsor: Senator Huffman

Section 51.803 (Automatic Admission: All Institutions), Education Code, requires that students meet certain criteria in addition to graduating with a grade point average in the top 10 percent of their class to be considered for automatic admission to any general academic teaching institution. Those criteria are: to successfully complete the recommended or advanced high school curriculum (or the portion available at their specific high school); to successfully complete a curriculum comparable in content and rigor to the recommended curriculum; and to satisfy the College Readiness Benchmarks on the ACT test or earn a score of at least 1,500 out of 2,400 on the SAT exam. Under Section 51.805 (Other Admissions), Education Code, students who do not meet the criteria for automatic admissions may still apply to a general academic teaching institution if they have completed the recommended or advanced high school curriculum.

The statutes apply to all general academic teaching institutions (as defined by Section 61.003 of the Education Code), including those that have open admission policies. Lamar State College-Orange (LSC-O) and Lamar State College-Port Arthur (LSC-PA) are included in this statute. No other two-year, lower-division institutions were impacted by this legislation, and community colleges are exempt. There are many potential students who, for any number of reasons, fail to graduate from high school having met the requirements of this law. LSC-O and LSC-PA have historically been the institutions to recruit and accept these students, offering them the opportunity to continue their educations. With the absence of community colleges in Southeast Texas, these students find themselves with no opportunities to continue their education. This bill:

Allows LSC-O and LSC-PA to accept into their institutions students who graduate from high school having completed the minimum high school curriculum.

Expanding Engineering Recruitment Programs—H.B. 2425

by Representative Morrison—Senate Sponsor: Senator Averitt

Current law requires the Texas Higher Education Coordinating Board (THECB) to establish and administer a one-week summer program to take place on the campus of each general academic teaching institution that offers an engineering degree program to expose middle school and high school students to mathematics, science, and engineering concepts they are likely to encounter in an engineering degree program and requires THECB to establish and administer a degree scholarship program for students who graduate with certain credentials. These requirements were enacted to address Texas' status as the ninth state among the 10 most populous states in the number of degrees awarded per 1,000 students in science and engineering fields.

In light of the fact that 25 percent of the bachelor's degrees awarded in Texas are from the private colleges and universities in Texas, some have suggested extending the noncompetitive grant application procedure to private colleges and universities to encourage all Texas children to enroll in more mathematics and science classes, remain competitive on a national and global level in those fields of study, and increase the diversity of the program. This bill:

Requires THECB to establish and administer the one-week summer program on the campus of each private or independent institution of higher education that offers an engineering degree program and to administer scholarships for students pursuing a degree in engineering at a private or independent institution of higher education.

Requires THECB to conduct a study that examines the success of engineering baccalaureate degree programs, the feasibility of expanding such programs at public junior colleges, and other certain methods for improving the accessibility and success of such programs.

Scholarship Trust Fund for Fifth-Year Accounting Students—H.B. 2440

by Representative McCall—Senate Sponsor: Senator Williams

In 1991, the sunset bill reauthorizing the Texas State Board of Public Accountancy (TSBPA) and the regulation of certified public accountants (CPAs) included, for the first time, a requirement that candidates for the CPA examination have a minimum of 150 hours of higher education. The legislation included a \$10 per year assessment on all CPA licensees to endow a scholarship fund to be available to students planning to take the CPA examination for their fifth year of accounting study. TSBPA was authorized to collect the funds, but the Texas Higher Education Coordinating Board (THECB) was required to administer the funds and award the scholarships.

An advisory board was created to assist THECB in the administration of the scholarships. While THECB has done a very effective job administering the scholarship program, the program is very small compared to the other THECB programs and does not relate directly to the mission of THECB. Historically, annual scholarships totaling \$500,000 and \$600,000 have been awarded to deserving fifth-year accounting students throughout the state.

THECB and TSBPA have agreed to transfer the administration of the fifth-year scholarship program to TSBPA because the administration of these scholarship funds is directly related to the mission of TSBPA. THECB, TSBPA, and the advisory board concur that it would be more appropriate for TSBPA to administer the fifth-year scholarship fund. This bill:

Establishes the scholarship trust fund, rather than the scholarship fund account, for fifth-year accounting students and transfers authority for the trust fund from THECB to TSBPA.

Making Available on the Internet Certain Information—H.B. 2504

by Representative Kolkhorst et al.—Senate Sponsor: Senator Shapiro

Many students attending public institutions of higher education today use the Internet to access course information. While some instructors choose to post their course syllabus on the Internet for student viewing, it is not a requirement. A syllabus posted on the Internet gives students convenient access to the course requirements and ensures constant availability of course information. An online course syllabus can also give students information about courses they are considering, prior to enrollment. Displaying course information online helps students make a more informed choice about future course registration.

Since tuition deregulation was implemented in 2003, tuition and fees at Texas' public, four-year universities have increased 53 percent. Work-study jobs provide opportunities for students who are in need of earnings and part-time employment to help pay education expenses. Furthermore, they provide real-world job experience suited to a student's skills, preferences, and possible career goals, while also offering the opportunity to develop important career contacts. Many students, however, are unaware of the different opportunities available on campus through work-study jobs. Making this information available on the Internet may increase student awareness of such opportunities. This bill:

Requires each institution of higher education, other than a medical and dental unit, to make available on the institution's Internet website not later than the seventh day after the first day of classes the syllabus, a curriculum vitae of each regular instructor, and the departmental budget report for each undergraduate classroom course offered for credit by the institution.

Requires an institution of higher education, other than a medical and dental unit, to conduct end-of-course student evaluations of faculty and develop a plan to make evaluations available on the institution's website.

Requires each institution of higher education to establish and maintain an online list of work-study employment opportunities.

Requires the Texas Higher Education Coordinating Board (THECB) to prescribe uniform standards to ensure that information regarding the cost of attendance and financial aid opportunities at institutions of higher education is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families.

Requires each institution of higher education that offers an undergraduate degree or certificate program to prominently display information regarding the cost of attendance on the institution's website and to conform to the uniform standards prescribed by THECB.

Requires THECB to provide on THECB's Internet website a program or tool that will compute the estimated net cost of attendance for a full-time entering first-year student attending an institution of higher education.

Requires THECB to encourage private or independent institutions of higher education that participate in the tuition equalization grant program to display cost of attendance information on the institution's Internet website and requires THECB to make available the program or tool to compute the net cost of attendance at the private or independent institution of higher education.

East Williamson County Multi-Institution Teaching Center—H.B. 2805

by Representative Maldonado et al.—Senate Sponsor: Senator Ogden

Temple College at Taylor has operated in east Williamson County since 1997. Growth and increasing demand for course offerings caused Temple College and Taylor community partners to create the East Williamson County Multi-Institution Teaching Center (center) in Taylor, which has grown to include Texas State Technical College-Waco, Texas Tech University, Tarleton State University-Central Texas, Taylor Independent School District (ISD), and Hutto ISD. The existing center's building and land are at capacity, and the center's annual growth projections are in double digits. To address capacity limitations, five of the center's member institutions pledged \$550,000 per year for 20 years to finance the construction of a new building. Unfortunately, because several of these entities required annual approval of their pledges, banks refused to finance the project. This bill:

Authorizes a member institution of the center or certain other entities to finance or refinance the acquisition, purchase, construction, improvement, renovation, enlargement, or equipping of physical facilities through issuance or bonds, notes, or other obligations.

Authorizes the financing of facilities to be made through a long-term agreement not to exceed a term of 40 years with another entity or through a guarantee of any bond, note, or other obligation.

Authorizes a member institution of the center or certain other entities to pledge irrevocably to the payment of bonds, notes, or other obligations issued or a long-term agreement or guarantee and to the extent permitted by law, all or any part of the available revenues, taxes, or any combination of revenues and taxes.

Prohibits the amount of the pledge from being reduced or abrogated while any bonds, notes, or obligations for which the pledge is made, or bonds, notes, or obligations issued to refund those bonds, notes, or obligations, are outstanding.

Texas Southern University Student Center Fee—H.B. 2954*by Representative Coleman—Senate Sponsor: Senator Ellis*

Under current law, Texas Southern University students must vote to raise and create fees for certain services. This bill:

Increases from \$35 to \$75 per semester and from \$17.50 to \$37.50 per summer term the maximum amount that may be charged to each student by the board of regents of Texas Southern University (board) to operate, maintain, improve, and equip the student center and to acquire or construct additions to the student center.

Prohibits the board from increasing the amount of the student center fee in any academic year unless the amount is approved by a majority of students voted in an election or by a majority of the student government of the institution.

Prohibits the fee from being charged after the fifth academic year in which the fee is first charged unless certain conditions are met.

Increasing Student Fees at the University of Houston—H.B. 2961*by Representative Coleman—Senate Sponsor: Senator Ellis*

All fee increases for the University Center at the University of Houston must be approved by a majority vote of the students or a majority vote of the student government. The existing fee paid by students has been capped at \$35 since 2005 and students have expressed support for improving the University Center. Raising the ceiling does not impose a higher fee on students, nor does it endorse a specific project, but rather only permits the possibility of a fee increase that might fund a future project. On November 19, 2008, University of Houston students passed a referendum in support of a fee increase to improve the University Center. The University of Houston is requesting that the law be amended to raise the current cap on the University Center fee. This bill:

Increases the maximum amount of the student union fee that the University of Houston System board of regents may charge students at the University of Houston from \$35 to \$150 per student for each regular semester and from \$17.50 to \$75 per student for each term of the summer session.

Conveyance of Real Property in Cherokee County—H.B. 3340*by Representative Hopson—Senate Sponsor: Senator Nichols*

In 1925, the Texas Forest Service, an integral part of the Texas A&M University System, acquired land in Cherokee County through a transfer from the Texas Prison System and designated it as the I.D. Fairchild State Forest, named for state Senator I. D. Fairchild of Lufkin. Today, the forest contains nearly 3,000 acres in several non-contiguous tracts. One of the tracts consists of approximately 221 acres of landlocked land in the John S. Evans Survey and is located several miles southeast of the main body of the forest. Rodney Newman owns land adjoining the Evans tract and other land adjoining the main body of the forest. He has proposed an exchange of a portion of his land of equal acreage adjacent to the main forest area for the Evans tract. Two independent fair market appraisals indicate Newman's land has a slightly higher value. The two tracts of land have been inspected by the forest service and are deemed to be equal in quality for forestry purposes. The proximity of the proposed exchange land would benefit the forest service by increasing the efficiency of on-going programmatic uses and eliminate the need to utilize adjacent landowner's property to access the Evans tract. This bill:

Authorizes the board of regents of the Texas A&M University System to convey certain real property in Cherokee County.

Environmental Service Fee at Public Institutions of Higher Education—H.B. 3353

by Representatives Naishtat and Fred Brown—Senate Sponsor: Senator Shapleigh

There are many students enrolled in public colleges and universities in Texas who have expressed a wish to minimize their harmful effects on the environment. A simple yet effective way for students to do this would be through an environmental service fee that is only implemented once a majority of the institution's student body approves the fee. By implementing an environmental service fee, institutions of higher education would have the opportunity to use funds to reduce energy consumption, pollution, and waste. Additional funds from collected fees could be used for campuses to upgrade current facilities so that they will remain compliant with new environmental regulations. New projects could potentially be undertaken, such as efficiency upgrades, recycling, or onsite renewable energy generation.

Texas State University in San Marcos was authorized to implement such a fee through S.B. 1230, 78th Legislature, Regular Session, 2003. The fee is administered through an Environmental Service Committee (ESC) comprised of four students and three faculty members. The ESC accepts applications for funding and chooses projects based on criteria relating to beneficiaries, sustainability, and budgets of the proposed projects. This bill:

Authorizes the governing board of a public institution of higher education to charge each student an environmental service fee, if the fee has been approved by a majority of students in a general student election.

Temporary Faculty License for Chiropractic Faculty—H.B. 3450

by Representative Legler et al.—Senate Sponsor: Senator Mike Jackson

The Texas Medical Board already has the ability to issue temporary faculty licenses for doctors who are licensed in other states and wish to teach at a medical school in Texas. This bill:

Authorizes the Texas Board of Chiropractic Examiners (TBCE) to issue a temporary faculty license to practice chiropractic.

Provides that a person would be eligible to obtain a temporary license if the person holds a faculty position of at least the level of assistant professor, the person works at least part-time at an institution listed in Subsection (c)(5) (relating to Parker College of Chiropractic and Texas Chiropractic College), the person is on active duty in the United States armed forces, and the person's practice under the temporary license will fulfill critical needs of the citizens of this state.

Provides that a person is eligible for a temporary license if the person holds a faculty position of at least the level of assistant professor, the person works at least part time at a certain institution, the person is on active duty with the United States armed forces, and the person's practice under the temporary license will fulfill critical needs of the citizens of this state.

Provides that a temporary license would be valid for one year.

Requires TBCE to adopt rules, fees, and forms, as required in the bill, by January 1, 2010.

Graduate Medical Education at Baylor College of Medicine—H.B. 3456

by Representative Branch et al.—Senate Sponsor: Senators Zaffirini and Uresti

Since 1977, the legislature has created and funded a number of programs in support of graduate medical education (GME)—the training of resident physicians. The purpose of these programs is to increase the number of physicians in the state and thus improve access to health care.

During the 79th Legislature, Regular Session, 2005, the legislature created a new method of funding resident physicians called “Formula GME Funding.” Subsequent to the legislative session, the Texas Higher Education Coordinating Board (THECB) instituted a number of rules relating to eligibility standards, reporting requirements, and other issues pertaining to the management of the program. The purpose of this legislation is to simplify the 1981 law authorizing Baylor College of Medicine to receive GME funding. Under this bill, Baylor College of Medicine will continue to have the statutory authority to receive GME funding, and THECB will continue to have the authority to contract with Baylor College of Medicine. This bill:

Deletes existing text outlining requirements of the services provided by Baylor College of Medicine through contracts with THECB to train resident physicians.

Requires the money disbursed to Baylor College of Medicine under said contracts to be spent by the school exclusively for the education, training, development, and preparation of resident physicians for a career in medicine.

Repeals certain sections of the Education Code further outlining requirements of the contracts between THECB and Baylor College of Medicine, funding of the programs, and appointment of resident physicians at primary teaching hospitals under certain conditions.

University Employee to Assist Veterans in Obtaining Educational Benefits—H.B. 3951

by Representative Chris Turner et al.—Senate Sponsor: Senators Wendy Davis and Van de Putte

Many veterans may be unaware of the resources available for them despite the number of education-related benefits for veterans, such as the G.I. Bill and the Hazlewood Act. Most institutions of higher education have an office of financial aid to assist veterans, but there is no assurance that the employees working in these offices are versed in all benefits and programs available to veterans, especially in light of the recent passage of the Post-9/11 G.I. Bill. This bill:

Requires each institution of higher education to ensure that at least one employee is trained to understand programs that benefit veterans and their dependents and is available during regular business hours.

Studies Regarding University Cost-Saving Measures and Electronic Textbooks—H.B. 4149

by Representatives Rose and Branch—Senate Sponsor: Senator Zaffirini

In recent years, state appropriations to institutions of higher education, when adjusted for inflation, have remained flat or declined. Tuition, on the other hand, has climbed continuously. At some institutions, state appropriations now are equal to or less than revenue from tuition and fees. It is important that state appropriations for higher education do not remain stagnant, but it is also important that colleges and universities do as much as possible to contain costs without sacrificing excellence. This bill:

Requires the Texas Higher Education Coordinating Board (THECB) to identify achievable cost-saving measures in the management and operation of institutions of higher education and to submit a report containing certain information by January 31, 2011.

Requires THECB to conduct a study and recommend policies regarding the use and availability of electronic textbooks in higher education in this state and in other states, and to make an initial report and recommendations not later than December 1, 2010.

Compliance Program Confidentiality and Bacterial Meningitis Vaccinations—H.B. 4189

by Representative Rose—Senate Sponsor: Senator Watson

Meningococcal meningitis is a disease caused by bacteria which infects the fluid of the spinal cord and the fluid surrounding the brain, and can result in brain damage, hearing loss, learning disability, and even death. This form of meningitis can be treated with antibiotics, but given the disease's rapid progression, early treatment in the course of the disease is imperative. Because the bacteria causing meningococcal meningitis is more easily spread between those in close proximity or with prolonged contact to an infected person, the Centers for Disease Control and Prevention (CDC) recommends routine vaccination of a number of groups at increased risk for contracting the disease, including college freshmen living in dormitories.

The goal of a compliance program is to prevent theft, fraud, and ethics violations. Texas law does not currently provide a means for an institution of higher education to protect the identity of an employee who makes a report to a compliance office or who participates in a compliance investigation. However, to be most effective, a compliance program needs to provide a method for employees to confidentially report potential problems. The willingness of employees to raise issues, make reports, and participate in the investigation and evaluation of those issues is often dependant on whether the employee's identity can be protected. This bill:

Creates the Jamie Schanbaum Act to require first-time students at institutions of higher education enrolling on or after January 1, 2010, to provide evidence of being vaccinated against bacterial meningitis.

Authorizes an institution of higher education that maintains a compliance program to establish procedures that provide anonymity and confidentiality to a person making a compliance report or participating in a compliance investigation.

Making the Academic Scholarship Nonresident Tuition Waiver Optional—H.B. 4244

by Representative Hochberg—Senate Sponsor: Senator Zaffirini

Currently, institutions of higher education must offer in-state tuition to nonresident students who receive a competitive scholarship of \$1,000 or more. This amounted to over \$51 million in waived tuition in fiscal year 2008.

Colleges and universities have generally supported the competitive academic scholarship waiver because it helped to attract some of the best students from the nation and the world. However, according to the Texas Higher Education Coordinating Board, nonresidents already benefit from a relatively low tuition when compared to other states' nonresident tuition and fees. This bill:

Authorizes, rather than requires, institutions of higher education to offer in-state tuition to nonresident students who receive a competitive scholarship of \$1,000.

Entitles a nonresident student who receives a competitive scholarship of \$1,000 for the 2009-2010 academic year to pay in-state tuition for each semester in which the student is awarded the scholarship as long as the student remains enrolled in the same certificate or degree program

Grants to Increase the Number of Students Enrolled in Nursing Programs—H.B. 4471

by Representative Kolkhorst et al.—Senate Sponsor: Senator Nelson

According to the Department of State Health Services, Texas is currently suffering a shortage of roughly 22,000 registered nurses. That shortage is likely to continue to grow just as the state's rapidly increasing population begins to age and require more acute care, and as older nurses retire or reduce their work hours.

In 2007, Texas nursing schools dramatically increased the number of new registered nurses graduating; however, this increase is far below the numbers needed to close the supply-and-demand gap. Furthermore, in 2008, Texas nursing schools turned away 8,000 qualified applicants, while Texas hospitals have an average statewide vacancy rate of just over 10 percent for registered nurses. The problem is the small number of faculty willing to teach for the prevailing salaries. This bill:

Requires the Texas Higher Education Coordinating Board to establish a procedure to allow a public or private institution of higher education that offers a professional nursing program to apply for certain grants under Subchapter Z (Professional Nursing Shortage Reduction Program), Chapter 61, Education Code, awarded to a program that intends to increase the number of students enrolled in and graduating from the program.

Tuition Equalization Grant Program Eligibility Requirements—H.B. 4476

by Representatives Cohen and Kent—Senate Sponsor: Senator Zaffirini

In 1971, the Texas Legislature created the Texas Tuition Equalization Grant Program (TEG), which reduces taxpayer costs for higher education by providing limited financial assistance to needy Texas students attending Texas independent institutions of higher education. TEG helps to bridge the tuition gap between lower priced state universities and independent institutions and encourages independent institutions to expand and continue to assume their share of the burden of educating a growing student population. It is currently the state's oldest General Revenue-funded program of student financial assistance.

The 79th Legislature modified the TEG program to make some of its requirements reflect those of the more recently created TEXAS Grant program. This legislation addresses the remaining inconsistencies by further modifying the eligibility requirements for TEG to mirror those of the TEXAS Grant program. This bill:

Requires a person to be enrolled in at least three-fourths of a full-course load, rather than to be enrolled in a full course load, and to make satisfactory academic progress toward a degree or certificate as determined by the institution of higher education to be eligible for a TEG.

Authorizes a person to receive the TEG in an academic year subsequent to qualifying for TEG if the person has completed at least 24 semester credit hours in the most recent full academic year in an undergraduate degree or certificate program or 18 semester credit hours in the most recent full academic year in a graduate or professional degree program.

Provides that the changes made by this legislation apply beginning with TEG grants awarded for the 2009-2010 academic year.

Texas Southern University Intercollegiate Athletics Fee—H.B. 4501

by Representative Coleman—Senate Sponsor: Senator Ellis

Under current law, Texas Southern University students must vote to raise fees for certain services. Any new fees must be created by the legislature. In an effort to generate needed revenue to support the athletics program,

revenue-generating sports such as basketball and football have increased game guarantees, and corporate sponsorships have been increased. Recently, the students at Texas Southern University have voted to approve a new athletic fee specifically for the enhancement of the athletic program. This bill:

Authorizes the board of regents of Texas Southern University to impose an intercollegiate athletics fee on each student in an amount not to exceed \$10 per semester credit hour.

Prohibits the fee from being imposed unless approved by a majority vote of the students participating in a general student election.

Tuition and Fees Exemptions for Former Foster Youth—S.B. 43

by Senator Zaffirini et al.—House Sponsor: Representative Gonzalez Toureilles

Although Texas statute authorizes tuition exemptions for former foster youth, these students face additional challenges as they transition into higher education. Currently, students must enroll at an institution of higher education by 21 years of age to secure their tuition benefits. This expectation is contrary to evidence that former foster youth may need time to mature, additional support, and structure, before realizing the benefits of higher education. This legislation encourages foster youth to participate in dual credit programs. These programs offer students academic rigor and an early introduction to higher education. This bill:

Exempts from payment of tuition and fees, including those charged for dual-credit courses offered in high school, certain students who were under the conservatorship of the Department of Family and Protective Services if they enroll in an institution of higher education as undergraduate students or in a dual credit course not later than the students' 25th birthday.

Provides that this legislation applies beginning with tuition and other fees charged for the 2010 spring semester.

Students Conducting Basic Research With Advanced Research Program Funds—S.B. 44

by Senator Zaffirini—House Sponsor: Representative Branch

Evidence shows that undergraduate research programs are effective in improving student retention and graduation rates, increasing students' likelihood to pursue a doctoral degree, and increasing interest in careers in science, technology, engineering, and mathematics. By setting aside advanced research program funds specifically for undergraduates, the pool of potential graduate students will grow while providing enriching research experiences. This bill:

Requires guidelines and procedures developed by the Texas Higher Education Coordinating Board to determine eligibility for advanced research program funds to require that an eligible institution must use a portion of the award to support basic research conducted by certain students at the institution.

Interinstitutional Graduate Training Programs—S.B. 45

by Senators Zaffirini and West—House Sponsor: Representative Hochberg

Interdisciplinary and interinstitutional graduate training programs are uniquely designed to provide students seeking a doctoral degree exposure to a wide range of faculty, courses, and experiences that equip them to succeed in cutting edge research. In turn, success in research has a significant positive impact on the ability to attract technology companies and others that advance the economic wellbeing of the region. Federal funding for such training programs is an important component in advancing the status, visibility, and success of Texas.

For example, the Keck Center within the Gulf Coast Consortia—a group of six Houston-area institutions of higher learning—has secured federal funds that support more than 70 graduate students in training programs within these six organizations. Student/trainee access to courses across the institutions is a critical component of these training programs. Until recently, an informal arrangement between institutions allowed students to take advantage of complementary expertise at sister institutions. This informal exchange of courses has been interrupted by the introduction of formal requirements for accreditation by the Southern Association of Colleges and Schools. Courses available to students at other institutions must now be covered by a formal agreement to ensure the accreditation of the institution offering a course. These formal agreements, in turn, conflict with state law that requires state institutions, such as the University of Houston, The University of Texas Health Science Center at Houston, and The University of Texas Medical Branch, to charge tuition.

This requirement can only be waived by legislation per Section 54.5035(d), Education Code, and Attorney General Opinion No. DM-421. Agreements that require tuition to be tracked (a process that differs among institutions) for each graduate student who takes a course at another institution are highly complex, involving significant staff time and effort in already overstressed systems. The commitment to these very important interdisciplinary, interinstitutional graduate training programs would be highly eroded by this requirement to charge tuition. This bill:

Authorizes the governing board of an institution to exempt from payment of tuition and fees a student who is taking a course under an interinstitutional academic program agreement but who is enrolled primarily at another institution that is party to the agreement.

Hazlewood Legacy Act—S.B. 93

by Senators Van de Putte and Uresti—House Sponsor: Representative Castro

The purpose of the Hazlewood Exemption is to provide an educational benefit to honorably discharged or separated Texas veterans by exempting those veterans from paying tuition and some fees at state colleges. In 2005 and 2006, Texas Attorney General Greg Abbott issued two opinions in which he stated that to receive benefits under Section 54.203 (Veterans, Dependents, Etc.) of the Texas Education Code, an eligible veteran must have been a United States citizen and a Texas citizen at the time he or she entered service. Last year, the attorney general withdrew those opinions, acknowledging that his interpretation of Hazlewood to exclude legal permanent resident immigrants, thousands of whom have served this country and state in the military, made the Hazlewood Act unconstitutional. The Texas Higher Education Coordinating Board (THECB) followed the attorney general's withdrawal by adopting temporary rules to provide that veterans are eligible for the Hazlewood Exemption whether they were U.S. citizens or legal residents at the time they entered the military in Texas. There are many men and women who are legal residents of Texas and who volunteer to enlist and serve in our armed forces; it is only reasonable that veterans who entered the military as legal permanent residents be afforded the same opportunities as those veterans who entered military service as U.S. citizens. This bill:

Creates the Hazlewood Legacy Act to require the governing board of each institution of higher education to exempt certain former members of the armed forces from the payment of tuition, dues, fees, and other required charges, applicable beginning with the 2009 fall semester, provided that the person entered the service at a location in Texas, declared this state as the person's home of record provided by the applicable military or other service, or would have been determined to be a resident of this state for purposes of Subchapter B (Tuition Rates), Chapter 54 (Tuition and Fees), Education Code, at the time the person entered the service.

Provides that the exemptions also apply to a spouse or to children of a member of the armed forces who was killed in action, who died while in service, who is missing in action, whose death is documented to be caused by illness or injury connected with service, or who became totally disabled as a result of a service-related injury; or a member of the Texas National Guard or the Texas Air National Guard who was killed since January 1, 1946, while on active duty or is totally disabled in a certain manner.

Requires the Texas Higher Education Coordinating Board to prescribe procedures to allow a person eligible for an exemption to waive the right to any unused portion of the maximum number of cumulative credit hours and assign the exemption for the unused portion of those credit hours to a child of that person; and sets forth eligibility requirements for children of members to receive the exemption.

University of Texas Health Science Center-South Texas—S.B. 98

by Senator Lucio et al.—House Sponsor: Representative Lucio III et al.

The South Texas border region has recently made strides in the development of professional health education with the opening of the Irma Rangel Pharmacy school at Texas A&M Kingsville and the development of the Regional Academic Health Center (RAHC), with facilities at The University of Texas (UT)-Brownsville, UT-Pan American, and in Harlingen. The interest shown in these educational facilities illustrates the desire of the fast-growing population in the South Texas border region to pursue professional degree programs. There is a great need for healthcare providers in the South Texas region. Establishing the first medical school in South Texas will provide an opportunity for local university graduates to attend professional school. An increasing number of students are choosing to continue their education in these locations and more of these graduates are choosing to practice in South Texas. The establishment of The UT Health Science Center-South Texas will increase medical research specific to the U.S./Mexico border area, allow local residents to receive a complete medical education without having to travel to another part of the state, and would help address the current medical provider shortage in the area through new faculty and residency positions. This bill:

Authorizes the board of regents of The UT System (board of regents) to operate The UT Health Science Center-South Texas and authorizes The UT Medical School-South Texas to be established as a component of the health science center.

Entitles The UT Health Science Center-South Texas to participate in the funding provided by Section 18, Article VII, Texas Constitution, for The UT System.

Sets forth certain requirements for the development and operation of The UT Health Science Center-South Texas.

Authorizes the board of regents to convert the Lower Rio Grande Valley Academic Health Center (regional health center) into The UT Health Science Center-South Texas, provides that this conversion is the intent of the legislature, and transfers the permanent endowment fund established for the benefit of the regional health center to the benefit of The UT Health Science Center-South Texas.

Educator Preparation Program Accountability and Online Institution Résumés—S.B. 174

by Senators Shapiro and Shapleigh—House Sponsor: Representative Branch

Parents, students, and policy makers need to make informed decisions regarding higher education in Texas, whether the decisions are personal matters regarding which institution best meets the needs and circumstances of a particular student or the decisions involve matters of state funding and public policy issues. Regardless of the nature of such decision making, parents, students, and policy makers alike lack an easily accessible and comprehensive list of information regarding Texas institutions of higher education.

An education system cannot exceed the quality of its teachers. Therefore, it is critical that Texas have a selective process for entry into teacher training programs and require that educator preparation programs deliver the type of instruction and support necessary to ensure quality classroom teachers for all of our students. This bill:

Requires the State Board for Educator Certification (SBEC) to propose rules establishing standards to govern the educator preparation programs based on certain information, including achievement and improvement of students taught by beginning teachers for the first three years and compliance with SBEC requirements regarding frequency, duration, and quality of structural guidance and ongoing support provided by field supervisors to beginning teachers during their first year in the classroom.

Sets forth accreditation rating assignments for educator preparation programs and certain actions that the Texas Education Agency (TEA) is authorized to take if a program fails to meet standards, including revoking approval of or closing the program.

Deletes existing provisions requiring the executive director of SBEC to appoint an oversight team of educators to an educator preparation program that fails to meet standards, to appoint a person to administer and manage operations of a failing program, and to delete text requiring SBEC to revoke approval of a program that does not improve after two years.

Requires SBEC to make certain information regarding educator programs in Texas available to the public through SBEC's Internet website, and requires SBEC to provide information relating to employment opportunities for teachers in various regions of the state and to identify each region experiencing a teacher shortage.

Requires the Texas Higher Education Coordinating Board (THECB) to develop and maintain online résumés for each institution of higher education on THECB's Internet website containing recent and accurate data from the institution and comparative information from national peer institutions no later than February 1, 2010, and requires each institution of higher education to submit to THECB any necessary information for its online résumé and to ensure that the institution's Internet website includes a link to THECB's website where the online résumé is available.

Requires THECB to maintain for each general academic teaching institution an online résumé designed for use by legislators and other interested policy makers relating to enrollment, costs, student success, and funding; and requires THECB to maintain for each general academic teaching institution an online résumé designed for use by prospective students, parents, and members of the public relating to enrollment, degrees awarded, costs, financial aid, admissions, instruction, baccalaureate success, and first-time licensure or certification examination pass rates.

Requires THECB to maintain for each public junior college, technical institute, and state college an online résumé designed for use by legislators and other interested policy makers relating to enrollment, costs, student success, and funding; and requires THECB to maintain for each public junior college, technical institute, and state college an online resume designed for use by prospective students, parents, and other members of the public relating to enrollment, degrees and certificates awarded, costs, financial aid, and student success.

Requires THECB to maintain for each medical and dental unit an online résumé designed for use by legislators and other interested policy makers relating to enrollment, costs, student success, and funding; and requires THECB to maintain for each medical and dental unit an online résumé designed for use by prospective students, parents, and other members of the public relating to enrollment, costs, financial aid, student success, and first-time licensure or certification examination pass rates.

Automatic Admissions and Scholarships to Encourage Enrollment—S.B. 175

by Senator Shapiro et al.—House Sponsor: Representative Branch

The Top 10 Percent law in Texas has limited students who can attend The University of Texas at Austin (UT). In 2008, 81 percent of the Texas residents in the freshmen class at UT were automatically admitted under the Top 10 Percent law. At this rate, Top 10 Percent law admissions will likely be at 100 percent by 2013. No other institution of higher education in the state is forced to use only one criteria for student admission. A university needs the flexibility

to consider criteria other than high school rank, such as test scores, special talents, leadership ability, personal achievements, or other relevant aspects of what the student can offer the academic environment. This bill:

Provides that, beginning with admissions for the 2011-2012 academic year, UT is not required to offer admission to applicants eligible for automatic admission in excess of 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students in an academic year.

Requires UT to offer admission to those applicants by percentile rank according to high school graduating class standing based on grade point average, beginning with the top percentile rank, until 75 percent of the enrollment capacity is filled, except that UT is required to offer admission to all applicants with the same percentile rank.

Provides that if there are more applicants in the current academic year than the number admitted to fill 75 percent of enrollment capacity, then UT is required to provide to each school district during the following academic year notice to high school junior-level students and their parents containing information about the anticipated percentile ranks of senior-level students who will be admitted during the next school year.

Prohibits UT from offering admission using these guidelines (under Section 51.803(a-1), Education Code) after the 2015-2016 academic year.

Requires UT, if it offers admission using these guidelines, to require admitted students to complete a designated portion of at least six semester credit hours during evening hours or other low-demand hours to ensure the efficient use of available classrooms.

Requires UT, not later than December 31 of each academic year in which these admissions guidelines are utilized, to submit a report to the governor, lieutenant governor, and speaker of the house of representatives containing certain information related to geographic diversity, admissions-related counseling and outreach efforts, recruitment of Texas residents into graduate and professional degree programs, recruitment of students who are members of underrepresented demographic segments of the state's population, and assessment and improvement of UT's regional recruitment centers.

Requires the Texas Higher Education Coordinating Board (THECB) to develop and implement a program to increase and enhance efforts of general academic teaching students in conducting counseling and outreach to high-performing high school seniors who are likely to be eligible for automatic admissions.

Prohibits UT from referencing the provisions of this section or a description of a provision of this section in a letter or other communication to a student who is denied admission to be used as a reason for being denied admission unless the number of applicants who qualify for automatic admissions for that academic year is sufficient to fill 100 percent of UT's enrollment capacity.

Prohibits UT from offering admission to nonresidents in excess of 10 percent of enrollment capacity if UT elects to use the provisions above to cap automatic admissions.

Prohibits UT from offering admission using the provisions to cap automatic admissions if a final court order prohibits UT from considering an applicant's race or ethnicity as a factor in admissions or UT's governing board has prohibited an applicant's race or ethnicity from being considered as a factor in admissions.

Requires THECB to publish an annual report on the impact of the automatic admissions cap on the state's goal of closing college access and achievement gaps.

Requires a general academic teaching institution to admit certain applicants for admission as a transfer undergraduate student if they meet certain criteria relating to completing core curriculum at another institution of higher education, applicable beginning with admissions for the 2010 spring semester.

Amends the way in which the school district is required to disseminate information related to the automatic admissions policy to certain students and their parents.

Requires THECB to award scholarships to certain students graduating in the top 10 percent of their high school class in order to encourage attendance at public institutions of higher education in Texas by outstanding high school students, and requires THECB to begin awarding scholarships for the first academic year after the 2010-2011 academic year, for which money is appropriated for that purpose.

Sets forth eligibility requirements of the scholarship program, and provides that a student is ineligible for an initial or subsequent scholarship if the student was offered admission to UT for an academic year for which the automatic admissions cap was employed.

Sets forth application procedures for the scholarship, conditions that students must meet in order to continue receiving the scholarship, publication guidelines for information related to scholarship dissemination, and reimbursement processes to institutions who provide scholarships under this program.

Requires THECB to develop a plan under which each public high school that is substantially below the state average in the number of graduates who attend any institution of higher education is required to provide certain information to students and to assist students in completing applications for higher education admission and financial aid.

Prohibiting Certain Activities by Financial Aid Employees—S.B. 194

by Senator Shapleigh—House Sponsor: Representative Donna Howard

In 2007, news reports uncovered potentially severe conflicts of interest by employees of financial aid offices in universities across the country. Major lending companies offered gifts to financial aid employees and encouraged the employees to purchase stock in the lending companies. Today's college students graduate saddled with enormous amounts of student loan debt. According to The Project on Student Debt, Texas students graduating from public four-year universities in 2007 graduated with an average debt of \$17,267. Texas must act to prevent even the semblance of conflicts of interest and other ethical lapses by those in financial aid offices who may have the power to direct students to a particular loan company. This bill:

Prohibits a person employed in the financial aid office of an institution of higher education or a career school or college from owning stock or holding another ownership interest in a student loan lender or solicit or accept any gift from a student loan lender.

Provides that a person employed by an institution of higher education who engages in these activities is subject to dismissal or other appropriate disciplinary action.

Prohibits a career school or college from knowingly employing a person who engages in these activities and requires the career school or college to take appropriate action if it discovers that an employee is in violation.

Midwestern State University Intercollegiate Athletics Fee—S.B. 256

by Senator Estes—House Sponsor: Representative Farabee

Midwestern State University (MSU) intercollegiate athletics are funded through gifts, gate receipts, advertising income, student service fee income, and local tuition. During the 2007-2008 academic year, a group of MSU students recognized the need for an intercollegiate athletics fee and advocated for such to the MSU Student Government Association (SGA). The SGA found that over one-half of the 35 Texas public universities have legislative authority to assess a fee to support intercollegiate athletics. With approximately \$500,000 of student fee funds being used to support athletics each year, students were interested in a new fee that would release current funding to be used for a growing need of student services, while not taking much-needed funding for athletics.

The approval of an intercollegiate athletics fee for MSU would not only provide funding to address Title IX gender equity issues and facilities upgrades, but would also supplement funding in the Academic Support Center for advising and tutoring services. As previously indicated, this new fee will release approximately \$500,000 of student services fee funds to support additional, needed student services. In January 2008, the MSU student body voted 75 percent in favor of a referendum to create an intercollegiate athletics fee of \$10 per semester credit hour, up to a maximum of \$120 per semester. This bill:

Authorizes the board of regents of MSU to charge each student an intercollegiate athletics fee, pending approval by a majority vote in a general student election.

Provides that the fee may be used only to develop and maintain an intercollegiate athletics program at MSU.

Resident Tuition and Fees for Veterans and Their Dependents—S.B. 297

by Senator Van de Putte et al.—House Sponsor: Representative Corte et al.

Currently, veterans who are not Texans but who want to attend a public college or university in Texas are required to pay out-of-state tuition and fees until they have lived in Texas for one year. Non-Texas veterans who may be interested in settling in Texas may be hesitant to come to Texas because of the out-of-state tuition costs. This bill:

Entitles a person eligible for educational benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 or the spouse or certain dependent children of an eligible veteran to pay tuition and fees at the rates provided for Texas residents if the person files with the institution of higher education a letter of intent to establish residency in this state and resides in this state while enrolled.

Requires the governing board of an institution of higher education to exempt from the payment of resident tuition a dependent child of a member of the Armed Forces of the United States entitled to pay resident tuition for any semester or term during which the member of the armed forces is deployed on active duty for the purpose of engaging in combative military operation outside the United States and requires the legislature to provide sufficient funds to cover the full costs of this exemption.

Online List of Work-Study Employment Opportunities—S.B. 305

by Senators Shapleigh and Zaffirini—House Sponsor: Representative Castro

Since tuition deregulation was implemented in 2003, tuition and fees at Texas' public, four-year universities have increased 53 percent. Work-study jobs provide opportunities for students who are in need of earnings and part-time employment to help pay education expenses. Furthermore, they provide real-world job experience suited to a student's skills, preferences, and possible career goals, while also offering the opportunity to develop important career contacts. Many students, however, are unaware of the different opportunities available on campus through

work-study jobs. Making this information available on the Internet may increase student awareness of such opportunities. This bill:

Requires each institution of higher education to establish and maintain an online list of work-study employment opportunities and to ensure that the list is easily accessible to the public on the institution's Internet website.

University of North Texas Intercollegiate Athletics Fee—S.B. 473

by Senator Estes—House Sponsor: Representative Crownover

Currently, the University of North Texas (UNT) football team plays at Fouts Field, which holds 20,000 spectators while UNT has more than 30,000 students. Additionally, Fouts Field is 56 years old and not up to date on disability accommodations and National Collegiate Athletic Association lighting regulations. In October, 2008, UNT students approved a campus ballot measure supporting the initiation of an intercollegiate athletics fee not to exceed \$10 per semester credit hour, and capped at \$150 per semester, passing with 58 percent voting in favor. This fee will not be collected until the new football stadium is constructed and available for use by the student body. Under state law, no state funds can be used for athletics construction and student fee contributions can only cover 50 percent of the total, which requires the other 50 percent to come from private donors. This bill:

Authorizes the board of regents of the UNT System to charge each student an intercollegiate athletics fee in an amount not to exceed \$10 per semester credit hour or a maximum total of \$150 for each semester or summer session.

Prohibits the fee from being charged before the first semester a new football stadium is available for use at UNT.

Provides that revenue from the fee may be used only for financing, constructing, operating, maintaining, or improving an athletic facility or for operating an intercollegiate athletics program at UNT.

Land Use on the Main Campus of Texas A&M University—S.B. 504

by Senator Ogden—House Sponsor: Representative Fred Brown

On December 10, 1993, the Texas A&M University Board of Regents (board) ground leased five acres to the Texas A&M Foundation (foundation) for the purposes of constructing the Jon L. Hagler Center. Section 85.25 (Lands and Mineral Interests) of the Education Code currently authorizes the board to lease to the foundation an area that does not exceed five acres on the original main campus of Texas A&M University.

The Texas Department of Transportation is developing a project to construct a railroad bridge and pedestrian bridge separation at Wellborn Road and George Bush Drive in College Station. The grade separation will result in loss of property currently under lease to the foundation, reducing the current parking area. The foundation is requesting an amendment to its ground lease to include an unused portion of the original main campus, which is west of the current ground lease. This area is estimated to be approximately 1.9 acres after the loss of property related to the grade separation at George Bush Drive and Wellborn Road. All other terms of the original 1993 lease will remain the same. This bill:

Provides that the board is authorized to grant to the foundation a lease of surface area not to exceed eight, rather than five, acres on the original main campus in order to construct and occupy a building for use consistent with the foundation's stated purpose.

Name of Stephen F. Austin State University—S.B. 596

by Senator Nichols—House Sponsor: Representatives Christian and Hopson

This bill prohibits the Stephen F. Austin State University (SFA) board of regents from changing the name of the university. There are no plans to change the name. However, placing the prohibition in the statute will forever preserve the contributions of Stephen Fuller Austin and link the university to the "Father of Texas." This is an appropriate action since SFA is celebrating its 85th anniversary this academic year, having begun classes on September 18, 1923, as a teacher's college and received university status in 1969. This bill:

Prohibits the name of the Stephen F. Austin State University from being changed.

Operation of Certain Institutes as General Academic Teaching Institutions—S.B. 629

by Senator West et al.—House Sponsor: Representative Aycock et al.

The 79th Legislature, 3rd Called Session, 2006, passed H.B. 153, an omnibus tuition revenue bond bill for higher education. The bill authorized the issuance of \$1.8 billion in tuition revenue bonds for institutions of higher education to finance construction, infrastructure improvement, and tuition revenue bonds for university system centers located in Killeen, San Antonio, and Dallas but placed certain restrictions on that bonding authority to postpone the issuance of any bonds for a center until that center reached a specified full-time student equivalent (FTSE) enrollment threshold, at which point a center could begin operating as a general academic teaching institution. Currently, all three of the system centers have met the 1,000 FTSE enrollment threshold required for independence.

In Spring 2009, the University of North Texas (UNT)-Dallas Campus surpassed an enrollment equivalent of 1,000 full-time students, which is the threshold required to become an independent institution. If funding is not released for a second building, the UNT-Dallas Campus will face a long-term space deficit and the lack of classroom space may jeopardize accreditation by the Southern Association of Colleges and Schools, which requires an institution to have adequate physical resources to support its programs and services. This bill:

Authorizes UNT-Dallas, notwithstanding any other provision of this subchapter, to operate as a general academic teaching institution with its own chief executive officer, administration, and faculty only after the Texas Higher Education Coordinating Board (THECB) certifies that enrollment at the UNT System Center at Dallas has reached an enrollment equivalent to 1,000 full-time students for one semester.

Authorizes THECB to operate a system center of UNT in the city of Dallas until that enrollment level is reached.

Prohibits Texas A&M University (TAMU)--San Antonio, notwithstanding any other provisions of this subchapter, from operating as a general academic teaching institution until THECB certifies that enrollment at the TAMU--Kingsville System Center--San Antonio has reached an enrollment equivalent of 1,000 full-time students for one semester.

Repeals Sections 55.1751(d) (relating to prohibiting the TAMU System from issuing bonds under this section for facilities at TAMU--Central Texas until certain THECB requirements are met) and (e) (relating to prohibiting the TAMU System from issuing bonds under this section for facilities at TAMU--San Antonio until certain THECB requirements are met), Education Code.

Repeals Section 55.1755(d) (relating to prohibiting the UNT System from issuing bonds under this section for facilities at UNT--Dallas until certain THECB requirements are met), Education Code.

Transferring the San Angelo Museum of Fine Arts to a Nonprofit Organization—S.B. 811

by Senator Duncan—House Sponsor: Representative Darby

Acts of the 74th Legislature, Regular Session, 1995, authorized Angelo State University (ASU) to enter into a joint association with the City of San Angelo and the San Angelo Museum of Fine Arts (SAMFA) to construct a new facility for an educational center and museum. During the 80th Legislature, Regular Session, 2007, H.B. 3564 transferred ASU, and all property, including SAMFA, from the Texas State University System to the Texas Tech University System (TTU System). In recent months, the TTU System and SAMFA have agreed to alter their current agreement and to transfer the title from the TTU System to an appropriate nonprofit organization. This bill:

Authorizes the board of regents of the TTU System to transfer title to the real property and improvements of SAMFA to a nonprofit organization if certain conditions are met.

Sets forth requirements for the deed transferring title of SAMFA to the nonprofit organization, including a provision that would revert the title to the TTU System under certain circumstances.

Fees for High-Cost Programs at Public Technical Institutes and State Colleges—S.B. 847

by Senator Averitt et al.—House Sponsor: Representative Anderson

Currently, community colleges are able to assess a fee for high-cost programs, such as pilot training to Hinson-Hazlewood students. However, when that provision was written into the Texas Education Code, Texas technical colleges were not included. S.B. 1528, 79th Legislature, Regular Session, 2005, authored by Senator Zaffirini, chairwoman of the Senate Subcommittee on Higher Education, provided community colleges with the ability to assess a fee for high-cost programs. Because of high-cost programs, such as Texas State Technical College-Waco's (TSTC-Waco) aircraft pilot training (program), TSTC-Waco has been running at a major deficit that is expected to get larger while the number of Fort Hood soldiers returning home increases. As of September/October 2008, TSTC-Waco lost \$41,399. Because word continues to spread about the low-cost or no-cost to Hinson-Hazlewood students in the program, the campus expects to see 100 Hinson-Hazlewood students by the fall semester of 2011. At this level, the college would be taking in too much debt to continue to offer the program and has indicated that it would have to consider removing it from the curriculum. This bill:

Authorizes the governing board of a public junior college, public technical institute, or public state college to establish a fee for extraordinary costs associated with a specific course or program, applicable beginning with the 2009 fall semester.

Establishment of University of North Texas System Law School at Dallas—S.B. 956

by Senators West and Shapiro—House Sponsor: Representative Branch et al.

The Dallas-Fort Worth area is the fifth largest Standard Metropolitan Statistical Area (SMSA) in the United States and the only SMSA that does not have a public law school. Texas' population has increased from 14.3 million to 22.5 million with no additional law schools being added, limiting the opportunities for Texans to attain an affordable legal education in Texas. With the continuing growth of the Dallas-Fort Worth region, the need for legal knowledge is increasing. Currently, Dallas must import 30 percent of its attorneys from out-of-state law schools. This bill:

Provides that the University of North Texas System (system) is composed of certain educational institutions, including the University of North Texas at Dallas College of Law.

Authorizes the board of regents of the University of North Texas System (board) to establish and operate a school of law in the city of Dallas as a professional school of the system.

Authorizes the board, in administering the law school, to prescribe courses leading to customary degrees offered at other leading American schools of law and to award those degrees.

Requires the Texas Higher Education Coordinating Board (THECB), before the board establishes a law school, but not later than June 1, 2010, to prepare a feasibility study to determine the actions the system is required to take to obtain accreditation of the law school.

Requires THECB, not later than November 1, 2010, to report the results of the required study to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each legislative standing committee with primary jurisdiction over higher education.

Notice of the Amount of Tuition Set Aside for Financial Aid to Other Students—S.B. 1304

by Senators Dan Patrick and Hinojosa—House Sponsor: Representative Branch

In 2003, the 78th Legislature passed H.B. 3015, which deregulated tuition and allowed the governing boards of institutions of higher education to set tuition at the amount they deemed necessary to operate each institution. H.B. 3015 also required institutions to set aside at least 15 percent of the designated tuition for undergraduate and graduate students to be used to provide financial assistance for economically disadvantaged undergraduate and graduate students. In addition, institutions were also required to set aside five percent of the undergraduate amount to fund the B-on-Time Loan Program. However, tuition and fees have risen 86 percent since 2003. As the costs associated with higher education have continued to rise, more students and families are struggling to pay for college. Yet many of these same students and their families are unaware that a portion of their payments are used to provide financial assistance to other students. This bill:

Requires an institution of higher education that is required to set aside a portion of a student's tuition payment to provide financial assistance to other students to provide each student with a notice regarding the specific amount required to be set aside that is to be included with either the student's tuition bill or billing statement or the student's tuition receipt.

Requires the notice to be sent in an e-mail to the student if a printed notice if the institution does not provide a printed tuition bill, tuition billing statement, or tuition receipt to the student.

Requires the Texas Higher Education Coordinating Board to prescribe minimum standards for the notice.

Prairie View A&M University Intercollegiate Athletics Fee—S.B. 1334

by Senator Hegar—House Sponsor: Representative Zerwas

Prairie View A&M University has a Division I level athletics program in the Southwest Athletic Conference. As such, the university must comply with the highest level of standards established by the National Collegiate Athletic Association (NCAA) and must meet stringent financial requirements. In 2003, the Texas Legislature enacted legislation that established an intercollegiate athletics fee at Prairie View A&M University. The legislation set a fee of \$10 to be imposed on a student enrolled in a maximum of 15 semester credit hours and included a sunset date of September 1, 2013. The primary funding mechanism for the Division I athletics program will end in 2013, unless the sunset provision is removed from statute. On April 22, 2008, the Prairie View A&M Student Government Association held an election for students to vote on removing the sunset provision from statute. The referendum passed with two-thirds of those voting in the election favoring the removal of the sunset provision. This bill:

Provides that Section 54.5393 (Intercollegiate Athletics Fee: Prairie View A&M University), Education Code, does not expire if the board of regents of the Texas A&M University System issues bonds by the end of the 2012-2013 academic year that are payable wholly or partly from the intercollegiate athletics fee.

Prohibits the fee from being imposed in any semester or session beginning after the date on which all of those bonds, including refunding bonds for the bonds, have been fully paid.

Semester Credit Hour Calculations for Formula Funding—S.B. 1343 [VETOED]

by Senator Hinojosa—House Sponsor: Representative Gonzales

Students at a four-year institution of higher education are required to have 120 credit hours in order to obtain a degree. Currently, there is a "30-hour rule" that allows students to take up to 30 extra hours before graduating without being penalized with out-of-state tuition rates. This rule exempts students who have previously earned a baccalaureate degree, allowing them to complete a second degree with possibly more than 150 hours on their transcript. The rule does not, however, exempt students who have previously earned an associate degree, about 66 hours of transferrable coursework.

In Texas, there are 29 Early College high schools and many programs around the state that allow high school students to graduate with an associate degree along with their high school diploma. When these students transfer to a four-year institution, their 66 associate degree hours transfer either toward their baccalaureate degree or as elective hours, depending on the university. Normally, about half of the hours are counted as elective hours, putting students over the 30 extra hours they are allowed to take before being penalized with higher tuition rates by the time they reach junior or senior status. The purpose of this bill is to add students with associate degrees to the list of exemptions in order for them to be able to continue to four-year institutions without worrying about higher tuition rates toward the end of their college careers. This bill:

Provides that semester credit hours earned by a student before receiving an associate degree and credit for a dual credit course before credited toward a high school diploma are not counted for purposes of determining whether a student has previously earned the number of semester credit hours when calculating the formula funding for certain excess credit hours.

Administration and Eligibility of the Joint Admissions Medical Program—S.B. 1728

by Senator West—House Sponsor: Representatives Chavez and Branch

The Joint Admissions Medical Program (JAMP) is the pipeline to medical school for economically disadvantaged students and represents a partnership between the eight medical schools in the state and the 65 public and private undergraduate institutions to achieve a more diverse medical school pool.

In its report to the governor, the JAMP council outlined several statutory modifications to further improve the program that comprise the substance of this legislation. One proposal was to eliminate the eligibility requirement related to the timing of attendance at an institution of higher education. Some individuals are unable to enroll in a university immediately upon graduation from high school, including individuals who enter the armed forces after graduation or individuals who face serious economic or medical situations before they are able to attend an institution of higher education. The JAMP council also recommended that the Texas Tech University Health Sciences Center at El Paso be added to the list of participating medical schools because it will be receiving its first class of students in the fall of 2009. This bill:

Deletes existing text requiring that students had enrolled at an institution of higher education the fall immediately after high school graduation in order to be eligible for admission into JAMP.

Includes the medical school at Texas Tech University Health Sciences Center at El Paso in the list of participating medical schools in JAMP.

Terms of Student Representatives on THECB Advisory Committees—S.B. 1729

by Senator West—House Sponsor: Representative Alonzo

This legislation amends Section 61.071 (Student Representatives on Certain Board Advisory Committees), Education Code, for the purpose of changing the term of a student member of certain Texas Higher Education Coordinating Board (THECB) advisory committees. The term is changed from an implicit one-year term to an explicit two-year term to enable the students to fully orient themselves to their positions, get fully up to speed with their responsibilities, and provide the committees a more efficient and continuous means for this process. This bill:

Prohibits the term of a student representative on a THECB advisory committee from being less than two years.

Baylor Health Care System Police and Security Services—S.B. 1735

by Senator West—House Sponsor: Representative Branch

In October 1988, the Baylor University Medical Center/Baylor Health Care System Department of Public Safety (Baylor DPS) was approved to operate as a campus police agency by the Texas Commission on Law Enforcement Officer Standards and Education. The 78th Legislature, Regular Session, 2003, while amending certain sections of the Education Code, made certain clarifying changes to better delineate the jurisdiction of Baylor DPS, which provides vital and extensive security and police services to various affiliated medical campuses and facilities situated in several adjoining counties. These police services are wholly supported through private funding from the nonprofit medical corporation, relieving local government agencies of the considerable burden of providing a police presence and related enforcement activity on these campuses and affiliated hospitals, while still allowing local police agencies to provide assistance in appropriate circumstances.

After various amendments, the provisions of this enabling section have become confusing and inconsistent with other provisions of the code. Additional clarifying language is necessary to delineate the corporate authority to commission peace officers and to better define the jurisdiction of Baylor DPS as extending clearly to all Baylor-related medical campuses and facilities. This bill:

Provides that Section 51.2125 (Private Institutions: Authority to Enter Into Mutual Assistance Agreement), Education Code, applies to a private institution of higher education that has under its control and jurisdiction property that is contiguous to, or located in any part within the boundaries of, a home-rule municipality that has a population of 1.18 million or more and is located predominantly in a county that has a total area of less than 1,000 square miles.

Authorizes the governing board of a private, nonprofit medical corporation, or of the parent corporation of such medical corporation, to employ and commission police or security personnel to enforce the law of this state within a limited jurisdiction.

Texas Save and Match Program—S.B. 1760 [VETOED]

by Senators Watson and Zaffirini—House Sponsor: Representative Branch

Texas's economic future depends on an educated workforce. Today, 80 percent of high-growth, high-demand jobs require some education beyond high school. Texas must enroll a minimum of 430,000 additional students in public universities—an increase of more than 35 percent—just to keep up in the 21st century economy, according to the Texas Higher Education Coordinating Board.

However, students are facing more obstacles than ever in trying to fund their postsecondary education. Students have become more reliant on loans compared to students in other states (61 percent in Texas rely on loans, compared to 49 percent of students in other states), and the cost of higher education has risen dramatically in the last several years while financial aid has declined. Tuition at Texas public universities and colleges rose 112 percent from 2003 to 2007, and the gap between actual college costs and aid received by Texas students rose by 71 percent from 2001 to 2006.

The 80th Legislature authorized the Prepaid Higher Education Tuition Board (board) to establish by rule a Texas Save and Match Program (program) as part of the Texas Tuition Promise Fund (Section 54.7521, Education Code). Currently, the program is limited to households below the state household median income (\$44,861). The program was not funded nor have any funds been contributed to the fund by outside sources. This bill:

Requires the board to develop and implement the program under which the board will open a matching account for each eligible beneficiary and will match money paid by a purchaser under a prepaid tuition contract on behalf of the beneficiary, or contributed to a savings trust account by an account owner under the Higher Education Savings Plan on behalf of the beneficiary with matching contributions or a matching purchase of tuition units using money appropriated by the legislature for the program and any contributions made by any person to the beneficiary's matching account.

Provides that the program is considered an eligible charitable organization entitled to participate in a state employee charitable campaign and entitles a state employee to authorize a payroll deduction for contributions to the program as a charitable contribution.

Sets forth eligibility requirements for a beneficiary to participate in the program and limitations to participation.

Requires the board to develop a variable formula to determine the amount of matching funds or matching purchases of tuition units to which eligible participating beneficiaries are entitled under the program in a year, and requires the board to match the contribution or purchase in a certain amount depending on the beneficiary's household adjusted income.

Prohibits money or tuition units in a beneficiary's matching account from being considered as available to the beneficiary or otherwise included in the beneficiary's household income or financial resources, for purposes of determining the beneficiary's eligibility for a TEXAS grant or any other state-funded student financial assistance.

Authorizes the board to accept gifts, grants, and donations from any public or private source for the purposes of this program.

Authorizes the board to establish pilot projects under the program in an effort to incentivize participation in the Prepaid Higher Education Tuition Program, the Higher Education Savings Program, and the Prepaid Tuition Unit Undergraduate Education Program.

Requires the board to waive the enrollment fee for a new account under this program for any beneficiary whose household adjusted gross income for the most recently completed tax year is not more than 200 percent of the federal poverty level.

Prohibits the Health and Human Services Commission (HHSC), for purposes of determining whether a child meets family income and resource requirements for eligibility for the child health plan, from considering as income or resources a right to assets held in or a right to receive payments or benefits under certain educational funds or plans, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

Prohibits HHSC, for purposes of determining the amount of financial assistance granted to an individual under this chapter for the support of dependent children or determining whether the family meets household income and resource requirements for financial assistance under this chapter, from considering the right to assets held in or the right to receive payments or benefits under certain educational funds or plans, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or any qualified tuition program for any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

Prohibits HHSC, under certain circumstances, in determining eligibility and need for medical assistance, from considering as assets or resources a right to assets held in or a right to receive payments or benefits under certain educational funds or plans, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

Requires HHSC to seek a federal waiver authorizing HHSC to exclude, for purposes of determining the eligibility of an applicant described by that subsection, the right to assets held in or a right to receive payments or benefits under certain educational funds, plans, or tuition programs if the fund, plan, or tuition program was established before the 21st birthday of the beneficiary of the fund, plan, or tuition program.

Repeals current law related to the Texas Save and Match Program and the way in which funds are to be matched.

Making Available on the Internet Cost and Financial Aid Information—S.B. 1764

by Senator Watson—House Sponsor: Representative Cohen

The purpose of this bill is to require all Texas colleges and universities to provide comprehensive information about the costs for prospective students to attend various institutions of higher education. Since tuition deregulation was implemented in 2003, tuition and fees at Texas' public, four-year universities have increased 53 percent. Making this information available on the Internet may increase student awareness of the cost of higher education so that they may make a fully informed decision based on the cost and availability of financial aid. This bill:

Requires the Texas Higher Education Coordinating Board (THECB) to prescribe uniform standards to ensure that information regarding the cost of attendance and financial aid opportunities at institutions of higher education is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families.

Requires each institution of higher education that offers an undergraduate degree or certificate program to prominently display information regarding the cost of attendance on the institution's website and to conform to the uniform standards prescribed by THECB.

Requires THECB to provide on THECB's Internet website a program or tool that will compute the estimated net cost of attendance for a full-time entering first-year student attending an institution of higher education.

Requires THECB to encourage private or independent institutions of higher education that participate in the tuition equalization grant program to display cost of attendance information on the institution's Internet website and requires THECB to make available the program or tool to compute the net cost of attendance at the private or independent institution of higher education.

Public Securities for Higher Education Improvements in Certain Municipalities—S.B. 1952*by Senator Mike Jackson—House Sponsor: Representative Weber*

Currently, Chapter 1434 (County and Municipal Higher Education Improvement Bonds), Government Code, authorizes certain cities and counties to issue public securities, including certificates of obligation to acquire, construct, or improve land, buildings, or other permanent improvements for use by an institution of higher education. The City of Pearland desires to enter into an agreement to issue public securities to finance and construct a building. A portion of the building will be leased to the University of Houston-Clear Lake to create a University of Houston-Pearland campus. The public finance division of the Office of the Attorney General has raised several concerns about the use of Chapter 1434 as authority to finance the campus. This bill:

Provides that Chapter 1434, Government Code, applies only to a home-rule municipality with a population of 25,000 or more that has an institution of higher education, rather than a general academic teaching institution, located within its boundaries or that has entered into an agreement with an institution of higher education relating to the provision of services in furtherance of the completion of certificate programs, degree programs, or other higher education programs within the municipality by the institution of higher education.

Defines "agreement" and redefines "institution of higher education."

Authorizes a municipality that has entered into an agreement described in Section 1434.001(1) to issue public securities, including certificates of obligation, to acquire, construct, or improve land, buildings, or other permanent improvements for use by an institution of higher education; impose ad valorem taxes to pay and secure payment of the principal of and interest on those securities and to provide a sinking fund; and pledge those taxes, any portion of the revenues received in connection with the agreement, or any combination of the taxes and revenue to secure payment of any portion of the public securities issued to acquire, construct, or improve land, buildings, or other permanent improvements for use by an institution of higher education.

THECB Approval of Certain Construction Projects—S.B. 1796*by Senator Zaffirini—House Sponsor: Representative Castro*

Current capitol project approval levels were established in 1999, but construction inflation and the complexity of building systems have increased greatly. This has slowed the approval process for institutions of higher education seeking approval from the Texas Higher Education Coordinating Board (THECB). This legislation would streamline the process for approving certain construction, repair, and rehabilitation projects. This bill:

Increases to \$4,000,000 the maximum amount that certain building and facility construction, repair, and rehabilitation projects cost in order to require approval by THECB.

Authorizes THECB to increase the total cost threshold required for certain projects in order to ensure that THECB is only improving substantial construction, repair, or rehabilitation projects.

Tuition and Fee Exemptions for Educational Aides—S.B. 1798*by Senator Zaffirini—House Sponsor: Representative Cohen*

Current law authorizes tuition and fee exemptions for certain educational aides enrolled in higher education courses for teacher certification. However, there is disagreement between institutions of higher education and the Texas Higher Education Coordinating Board (THECB) regarding exemption applications. An exemption application must be initiated by the educational aide's employing school district, which then forwards it to the institution of higher education at which the aide is enrolled. Subsequently, the institution completes a portion of the form and then

forwards it to THECB which then must determine eligibility and advise the institution of higher education and school district regarding eligibility. The institution of higher education must then respond to THECB with a recommended award amount before THECB can offer reimbursement. This bill:

Requires the institution of higher education at which an educational aide seeking a tuition and fees exemption applicable beginning with the 2009 fall semester is enrolled to certify the person's eligibility and requires the institution of higher education to make the determination of eligibility and give notice of its determination to the applicant and to the school district employing the applicant as an educational aide.

Administration and Operation of the Texas Tomorrow Fund II—S.B. 1941

by Senator Shapiro—House Sponsor: Representative Morrison

The Texas Tomorrow Fund II allows a person to purchase tuition units for the future payment of undergraduate tuition and fees. Current law omits a career school as an eligible institution of higher education at which a beneficiary is able to redeem his or her prepaid tuition units.

Under current law, the Texas Save and Match program is not considered an eligible charitable organization as it relates to the charitable contributions of state officers and employees. This bill:

Includes a career school among the types of institutions of higher education that an individual may attend in order to be eligible as a beneficiary under the prepaid tuition unit undergraduate education program.

Provides that the Texas Save and Match program is considered an eligible charitable organization entitled to participate in a state employee charitable campaign and entitles a state employee to authorize a payroll deduction for contributions to the program as a charitable contribution.

Requires the comptroller of public accounts to provide to the Prepaid Higher Education Tuition Board a sworn statement of the amount of the fund's assets, requires the plan manager to provide to the comptroller a quarterly report of all funds distributed during the previous quarter, and authorizes the comptroller to require more frequent reports or may request that the plan manager provide any additional information at any time necessary to ensure that the fund's assets are adequately protected.

Environmental Service Fee at Public Institutions of Higher Education—S.B. 2182

by Senator Shapleigh—House Sponsor: Representative Naishtat

There are many students enrolled in public colleges and universities in Texas who have expressed a wish to minimize their harmful effects on the environment. A simple yet effective way for students to do this would be through an environmental service fee that is only implemented once a majority of the institution's student body approves the fee.

Texas State University in San Marcos was authorized to implement such a fee through S.B. 1230, 78th Legislature, Regular Session, 2003. The fee is administered through an Environmental Service Committee (ESC) comprised of four students and three faculty members. The ESC accepts applications for funding and chooses projects based on criteria relating to beneficiaries, sustainability, and budgets of the proposed projects. This bill:

Authorizes the governing board of a public institution of higher education to charge each student an environmental service fee, if the fee has been approved by a majority of students in a general student election.

Economic Development and Diversification In-State Tuition Incentive—S.B. 2244*by Senator Zaffirini—House Sponsor: Representative Branch*

The economic development and diversification in-state tuition incentive may be offered by the Texas Economic Development and Tourism Office (office) to qualified businesses that are in the decision-making process to relocate or expand their operations into Texas. The incentive allows employees and family members of the qualified businesses to pay the Texas resident tuition rate at a Texas public institution of higher education without first establishing residency. However, these statutes lack a time limit and do not focus on businesses that are new to Texas. This bill:

Entitles a person or the person's dependents to pay tuition and fees at the rate provided for residents if the person's or caretaker's employing business or organization, not earlier than five years before the enrollment date, became established in this state.

Requires the office and the Texas Higher Education Coordinating Board to establish procedures to determine whether a business or organization meets these requirements and to determine the date on which the business or organization became established in this state.

Mathematics, Science, and Technology Teacher Preparation Academies—S.B. 2262*by Senator Zaffirini—House Sponsor: Representative Branch*

Under current law, a teacher must have acquired five years of experience prior to participating in the Mathematics, Science, and Technology Teacher Preparation Academies (academies) administered by the Texas Higher Education Coordinating Board (THECB) at institutions of higher education. Teachers with less than five years of experience are denied the chance to seek to improve their instructional skills by taking part in academies. This reduces the participant pool and diminishes opportunities to retain more math and science teachers. Additionally, the law grants THECB the ability to establish academies at institutions of higher education. This power, however, is found in the public education title of the Education Code rather than the higher education title. This bill:

Reduces from five to two the required number of years experience as a teacher of mathematics, science, or technology that an educator must have to qualify to participate in the academy program.

Funding Student Travel at the John Ben Shepperd Public Leadership Institute—S.B. 2465*by Senator Seliger—House Sponsor: Representative Lewis*

The John Ben Shepperd Public Leadership Institute (institute) was established in 1995 at The University of Texas at the Permian Basin (UTPB) to provide leadership, ethics, and public service training to students throughout Texas. Each year, selected high school leaders travel to the UTPB campus in the summer to attend the Shepperd Scholars Summit, and to Austin to attend an annual statewide leadership forum. To date, over 33,000 young people have completed the training at the institute. However, a recent audit conducted by the comptroller of public accounts found that statutory permission is needed in order for the institute to use state funds to pay for student travel. This bill:

Authorizes that funds appropriated for the institute be used to pay for costs associated with the institute's educational programs for public secondary and university-level students, including registration fees, ground or air transportation, lodging, meals, training costs, and related expenses.

Public School Accountability—H.B. 3

by Representative Eissler et al.—Senate Sponsor: Senator Shapiro

The current public school accountability system was first implemented in this state in 1993 with three main goals: to improve student performance, increase graduation rates, and narrow the gap between student groups. The system uses a rating system to identify the performance of schools and districts by deeming them academically unacceptable, acceptable, recognized, or exemplary based on the results of students' performance on the Texas Assessment of Knowledge and Skills (TAKS) assessment instrument and a school's completion and dropout rates.

Evaluation of the accountability system by legislators during the interim of the 80th Legislature found that the system overemphasized minimal performance on one examination, failed to recognize or reward improvement, narrowed the scope of curriculum and instruction, focused on minimum passing standards, provided confusing reports to parents and the public, and poorly aligned with the requirements in the No Child Left Behind (NCLB) Act.

The world of tomorrow requires sound preparation for both college and careers. From the Texas high school graduating class of 2007, 10 percent of distinguished program graduates and 33 percent of recommended program graduates were not college-ready in at least one subject area. Nationally, employers estimate that 45 percent of recent high school graduates are not adequately prepared to advance beyond entry level. Eighty-five percent of newly created U.S. jobs will require education beyond high school.

This legislation modifies the accountability system to focus on individual student achievement; educate students to a postsecondary readiness standard; promote efficient use of resources; recognize excellence at individual campuses, and provide robust, meaningful, and relevant reports of student, campus, and district performance. This bill:

Includes open-enrollment charter schools among the types of schools on which the Texas Education Agency (TEA) is required to provide best practices information on an online clearinghouse and removes restrictions regarding the types of information that must be addressed on the clearinghouse.

Requires a principal who was employed as a principal at a campus that was rated academically unacceptable during the 2008-2009 school year to participate in the school leadership pilot program and complete the program requirements by a certain date, and deletes the requirement that a person employed to replace a principal of a campus rated academically unacceptable participate in the program.

Provides that a home-rule school district is subject to a prohibition, restriction, or requirement, as applicable, imposed by this title (Public Education) or a rule adopted under this title, relating to elementary class size limits in the case of any campus in the district that fails to satisfy any standard, rather than in the case of any campus in the district that is considered academically unacceptable.

Authorizes the commissioner of education (commissioner) to develop and implement a certain system of distinction designations to be used in assigning distinction designations to Job Corps diploma programs comparable to those assigned to campuses.

Requires the State Board of Education (SBOE), applicable beginning with the 2010-2011 school year, to adopt rules requiring students enrolled in grades levels six, seven, and eight to complete at least one fine arts course during those grade levels.

Requires SBOE, each time the Texas Higher Education Coordinating Board (THECB) revises the Internet database of its official statewide inventory of workforce education courses, to revise the essential knowledge and skills of any corresponding career and technology education (CTE) curriculum.

Prohibits a school district, notwithstanding any other provision of this title, from varying the curriculum for a required fine arts course based on whether a student is enrolled in the minimum, recognized, or advanced high school program.

Authorizes the commissioner to implement interventions in addition to sanctions for certain programs that, once evaluated, fail to meet a certain standard of performance.

Deletes existing text prohibiting a student's performance on a question adopted by THECB and included in an end-of-course assessment instrument from being used to determine the student's score on that instrument.

Sets forth certain criteria that a school district is required to consider to promote a student to the next grade level, requires a district to make public the requirements for student advancement by the start of the school year, and requires the commissioner to provide guidelines based on best practices that a district may use when considering factors for promotion.

Deletes existing text prohibiting a student from being promoted to the fourth grade program without performing satisfactorily on the third grade reading assessment instrument.

Requires a school district to provide accelerated instruction in a subject in which a student fails to perform satisfactorily on its respective assessment in the third, fourth, fifth, sixth, seventh, or eighth grade before that student is allowed to be promoted to the next grade level.

Requires each student to enroll in the recommended or advanced high school curriculum, except under certain circumstances and if the student is at least 16 years of age, has completed two credits required for graduation in each subject of the foundation curriculum, or has failed to be promoted to the tenth grade one or more times.

Amends the curriculum requirements for the recommended and advanced high school programs to include one-half credit in government, one-half credit of economics, two credits for the recommended program and three credits for the advanced program in a foreign language, and six elective credits for the recommended program and five elective credits for the advanced program; and amends the curriculum requirements for the minimum, recommended, and advanced high school program to include one credit in fine arts and one credit in physical education.

Sets forth certain requirements for SBOE and school districts regarding mathematics and science courses offered after the completion of Algebra II and physics.

Requires a school district to provide notice to the parent or guardian of a student regarding the benefits of the recommended high school program before the student is permitted to take courses under the minimum high school program.

Sets forth requirements regarding whether certain required curriculum credits are satisfied by participation in private or commercial programs.

Establishes a pilot program for research universities to partner with school districts to award high school diplomas to students who demonstrate early readiness for college and sets forth certain criteria of the pilot program.

Sets forth standards for rigor in CTE courses offered by a school district.

Modifies eligibility requirements for a student to receive a public education grant (PEG) if the student is assigned to attend a school campus that, at any time in the preceding three years, failed to satisfy any standard under Section 39.054(d), Education Code.

Provides that an open-enrollment charter school is eligible to act as a provider school only if the school is rated acceptable, rather than recognized.

Requires TEA to establish and maintain a student assessment data portal for use by school districts, teachers, parents, students, and public institutions of higher education and sets forth requirements of the secure, interoperable system to be implemented through the portal.

Requires TEA to develop criterion-referenced assessment instruments to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science in a manner that allows, to the extent practicable, the score a student receives to provide reliable information relating to a student's satisfactory performance for certain performance standards and an appropriate range of performances to serve as a valid indication of growth in student achievement.

Requires TEA to develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom allowable accommodations on a standard assessment instrument would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. Removes current requirements for assessment of students in special education programs.

Requires TEA, every third year under rules adopted by SBOE and applicable immediately, to release questions and answer keys to certain assessment instruments, excluding any assessment instrument administered to a student for the purpose of retaking the instrument.

Requires the commissioner and the commissioner of higher education to study the feasibility of allowing students to satisfy end-of-course requirements by successfully completing a dual-credit course and to submit recommendations to the legislature by December 1, 2010, based on this study.

Requires the commissioner to make certain information related to end-of-course examinations available on TEA's Internet website on or before September 1 of each year.

Prohibits the end-of-course examination questions adopted by TEA from being administered in a separate section of the end-of-course assessment instrument.

Prohibits the commissioner from requiring a school district or open-enrollment charter school to administer an assessment instrument by computer.

Establishes the definition and proposed measurement of college-readiness based on the correlation of a student's performance in Algebra II and English III and postsecondary success; and requires certain studies to be conducted to provide further information on this correlation and measure of college-readiness.

Requires the commissioner, rather than SBOE, to determine the level of performance considered to be satisfactory on the assessment instruments and requires the commissioner to establish performance standards for certain end-of-course assessment instruments.

Authorizes, rather than requires, TEA to develop study guides for the end-of-course assessment instruments, and requires each school district to make the study guides available to parents of students who do not perform satisfactorily, as determined by the commissioner, on one or more parts of an assessment instrument.

Requires TEA to collect certain data regarding performance standards and the implementation of those standards during the 2009-2010 and 2010-2011 school years and continually at least once every three years in order for performance standards to remain rigorous.

Sets forth certain requirements regarding the scores a student must obtain on end-of-course assessment instruments in order to graduate.

Prohibits a school district from administering locally required assessment instruments designed to prepare students for state-administered assessment instruments to any student on more than 10 percent of the instructional days in any school year, and authorizes a campus-level and decision-making committee to limit the administration of locally required assessment instruments to 10 percent or a lower percentage of the instructional days in any school year.

Authorizes a student to be administered an accommodated or alternative assessment instrument or granted an exemption from or a postponement of the administration of an assessment instruction under certain circumstances related to the student's English proficiency, status as an immigrant, or status as an unschooled asylee or refugee.

Requires TEA to determine the necessary annual improvement required each year for a student to be prepared to perform satisfactorily on, as applicable, the grade five, grade eight, and the end-of-course assessment instruments.

Requires the commissioner to determine in accordance with this subchapter (Accreditation) the criteria for the following accreditation statuses: accredited, accredited-warned, and accredited-probation, applicable beginning with the 2011-2012 school year.

Requires the commissioner, rather than SBOE, to adopt a set of performance indicators of the quality of learning and student achievement and to biennially review the indicators for the consideration of appropriate revisions and makes this provision applicable immediately. Requires these performance indicators to include the results of certain assessment instruments, dropout rates, and high school graduation rates.

Deletes existing performance indicators, including attendance rates; performance on specific end-of-course assessment instrument questions; percentage of students who graduate having completed the recommended high school program; results of the SAT, ACT, articulated postsecondary degree programs, and certified working training programs; percentage of students provided accelerated instruction; progress of students who have failed to perform satisfactorily on an assessment instrument; percentage of students exempted from the assessment program; percentage of students of limited English proficiency who are exempted from the administration of an assessment instrument; percentage of students in a special education program assessed through alternative assessment instruments; measure of progress toward preparation for postsecondary success; and measure of progress toward dual language proficiency for students of limited English proficiency.

Requires the commissioner to determine the period within which a student is required to retake an assessment instrument to be considered in determining the performance rating of the district.

Requires the commissioner to define the state standard for the current school year for each student achievement indicator, to project state standards for each indicator for the following two school years, and to periodically raise the standards for accreditation as necessary to reach certain goals not later than the 2019-2020 school year.

Requires the commissioner to exclude certain students in computing dropout and completion rates.

Sets forth methods and standards for the commissioner to use in evaluating school district and campus performance and requires the commissioner, not later than August 8 of each year, to assign each district and campus a performance rating that reflects either acceptable or unacceptable performance.

Removes provisions relating to the gold performance rating program.

Provides that for purposes of determining the performance of a school district or campus, a student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Youth Commission, the Texas Juvenile Probation Commission, a juvenile board, or any other governmental entity is not considered to be a student of the school district in which the program or facility is physically located.

Adds to a list of scenarios that must take place to require the commissioner to authorize special accreditation investigations to be conducted.

Requires the commissioner to develop and implement a financial accountability rating system for open-enrollment charter schools, in addition to school districts, in this state.

Requires the comptroller of public accounts (comptroller) to identify school districts and campuses that use resource allocation practices that contribute to high academic achievement and cost-effective operations, and requires the comptroller to evaluate certain criteria from districts and campuses in regard to financial accountability.

Requires TEA to develop a review process to anticipate the future financial solvency of each school district, and sets forth certain requirements of this process.

Requires the school district to post on the district's Internet website a copy of the final approved budget adopted by the board of trustees and to maintain the adopted budget on the website for three years after the budget was adopted.

Provides interventions and sanctions for campuses, school districts, and open-enrollment charter schools that perform below certain standards and requires the commissioner to take certain actions under these circumstances, applicable as provided by the transition plan adopted by the commissioner under Section 39.116, Education Code, as added by this Act.

Authorizes the commissioner, notwithstanding the provisions of Subchapter E (Accreditation Interventions and Sanctions), Chapter 39, Education Code, to accept intervention measures taken by a campus subject to interventions or sanctions under federal accountability requirements as measures in compliance with this subchapter.

Sets forth the requirements for the use of campus improvement plans to remedy those areas for which a campus would not satisfy performance standards in the following school year.

Sets forth the duties of campus intervention teams assigned by the commissioner to a campus that performed below any standard under Section 39.054(e), to conduct a comprehensive on-site needs assessment, if applicable, and to make recommendations related to any area of insufficient performance.

Requires the commissioner to approve the targeted improvement plan for the campus, authorizes the commissioner to authorize a school community partnership team to supersede the authority of and satisfy the requirements of establishing and maintaining a campus-level planning and decision-making committee, and authorizes the commissioner to authorize that a targeted improvement plan supersedes the provisions of and satisfies the requirements of developing, reviewing, and revising a campus improvement plan.

Sets forth certain actions that are required of a school district's board of trustees after submission of a targeted improvement plan or updated plan.

Requires the commissioner to order reconstitution of a campus if it has been identified as unacceptable for two consecutive school years, and sets forth duties of the campus intervention team during the reconstitution process.

Authorizes the commissioner, if the commissioner determines that the campus is not fully implementing the updated targeted improvement plan or if the students enrolled at the campus fail to demonstrate substantial improvement in the areas targeted by the updated plan, to order repurposing of the campus, alternative management of the campus, or closure of the campus.

Requires the commissioner, if a campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is reconstituted, to order repurposing of the campus, alternative

management of the campus, or closure of the campus; and authorizes the commissioner to waive this requirement for not more than one school year under certain circumstances.

Prohibits the commissioner from requiring that the name of a campus be changed when reconstituting, repurposing, or imposing any other intervention or sanction on a campus.

Authorizes the commissioner, during the period of transition to the accreditation system established in this legislation to be implemented in August 2013, to suspend assignment of accreditation statuses and performance ratings for the 2011-2012 school year; and requires the commissioner to take certain actions to implement the accreditation system and evaluation outlined in this legislation during certain subsequent school years.

Requires the commissioner to establish and award distinction designations for school districts and campuses provided that they demonstrate acceptable performance.

Sets forth criteria for the commissioner to establish a recognized and exemplary rating to award districts and campuses an academic distinction and requires the commissioner to award a distinction designation to a campus that is ranked in the top 25 percent of campuses in the state in annual improvement in student achievement in certain categories of performance, including academic achievement in English language arts, mathematics, science, or social studies; fine arts; physical education; 21st Century Workforce Development program; and second language acquisition program.

Requires the commissioner to establish standards for considering campuses and methods to use when awarding a campus distinction designation, and to establish committees to develop criteria for certain distinction designations.

Removes provisions requiring SBOE to develop a plan for recognizing and rewarding school districts that are rated as exemplary or recognized and for developing a network for sharing proven successful practices statewide and regionally.

Authorizes a school district to use funds based on average daily attendance allocated under Section 42.2516(b)(3), Education Code, on any instructional program in grades six through 12 other than an athletic program if the district's measure of progress toward college readiness is determined exceptional by a standard set, rather than if the district is recognized as exceptional, by the commissioner and the district's completion rates for grades nine through 12 exceed completion rate standards required by the commissioner to achieve a status of accredited, rather than to achieve a rating of exemplary.

Requires the commissioner to adopt standards to evaluate school district programs for gifted and talented students to determine whether a district operates a program for gifted and talented students in accordance with the Texas Performance Standards Project or another program approved by the commissioner that meets the requirements of the state plan for the education of gifted and talented students.

Deletes existing text allowing a principal at a campus that was rated academically unacceptable for two consecutive years to be retained at the campus if the students enrolled at the campus have demonstrated a pattern of significant academic improvement.

Requires the commissioner to adopt additional performance indicators for the purpose of preparing reports based on longitudinal student data, including the percentage of students who graduate having completed the minimum, recommended, or advanced high school curriculum; results of the SAT, ACT, articulated postsecondary degree programs, and certified workforce training programs; results of subsequent assessment instruments for students who initially fail to perform satisfactorily on those instruments; disaggregated numbers of students for each campus that take courses under the minimum high school program; information related to performance of students who are provided accelerated instruction; percentage of students of limited English proficiency exempted from the administration of certain assessment instruments; percentage of students in a special education program assessed

through certain alternative assessment instruments; percentage of students who satisfy the college readiness measure; measure of progress toward dual language proficiency for students of limited English proficiency; percentage of students who are not educationally disadvantaged; percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

Requires TEA to report to each school district the comparisons of student performance and, to the extent practicable, combine the report of comparisons with the report of the student's performance on assessment instruments.

Requires the school district to provide a record of the comparisons made in a written notice to the student's parent or other person standing in parental relationship and to provide certain information relating to access to online educational resources to students who fail to perform satisfactorily.

Sets forth certain criteria for the preparation and distribution of a teacher report card, campus report card, performance report for the school district, TEA's comprehensive annual report, TEA's regional and district level report, TEA's technology report, and TEA's interim report.

Aligns requirements for the notice in the student grade report and the notice on district website to the changes made in this Act related to accreditation statuses and whether a campus has been identified as an unacceptable campus or has been awarded a distinction designation.

Exempts students who have completed a recommended or advanced high school program and demonstrated the performance standard for college readiness on the Algebra II and English III end-of-course assessment instruments from being required by THECB to be assessed using exit-level assessment instruments or additional diagnostic assessment instruments at institutions of higher education to determine the students' college readiness. Requires the commissioner of higher education to establish the period for which this exemption is valid.

Authorizes the commissioner of higher education and the commissioner, in consultation with the comptroller of public accounts (comptroller) and the Texas Workforce Commission, to award a grant in an amount not to exceed \$1 million to an institution of higher education to develop advanced mathematics and science courses to prepare high school students for employment in a high-demand occupation.

Requires an institution of higher education to work in partnership with at least one independent school district and a business entity in developing a CTE course, sets forth requirements for these courses, and requires an institution of higher education to periodically review and revise the curriculum for the courses to accommodate changes in industry standards for the high-demand occupation.

Sets forth CTE course grant application criteria, the authorized use of awarded funds by an institution of higher education, and the way in which courses are to be reviewed by the commissioner of higher education and the commissioner.

Requires an institution of higher education awarded a CTE course grant to obtain from one or more business entities in the industry for which students taking certain CTE courses are training, in a total amount equal to the amount of the state grant gifts, grants, or donations of funds or contributions of property that may be used in providing the courses.

Prohibits the total amount of grants awarded for CTE courses in any state fiscal biennium from exceeding \$10 million.

Requires the comptroller to establish and administer the Jobs and Education for Texas (JET) fund as a dedicated account in the general revenue fund to provide grants to public junior colleges, public technical institutes, and eligible nonprofit organizations to provide scholarships to certain students, prepare low-income students for careers in high-

demand jobs, and to defray startup costs associated with the development of new career and technical education programs.

Creates an advisory board of education and workforce stakeholders to assist the comptroller in administering the JET fund.

Sets forth eligibility requirements that students, nonprofit organizations, and colleges must meet to receive grants from the JET fund.

Repeals certain provisions relating to teacher and student data reporting requirements for TEA, providing the parameters of a school district's fiscal year and how that affects the submission of information by a district, and requirements for continuing education and individualized professional growth plans for certain principals.

Sets forth content and submission requirements for the transition plan that TEA must prepare not later than December 1, 2010.

Provides that this Act, except where otherwise stated in this summary, applies beginning with the 2009-2010 school year.

Authorizes the commissioner to immediately apply any exceptions to interventions and sanctions under Subchapter E (Accreditation Interventions and Sanctions), Chapter 39, Education Code, as amended by this Act, to interventions and sanctions under Subchapter G (Accreditation Sanctions), Chapter 39, Education Code, as that law existed prior to amendment by this Act.

Enhanced Quality Full-Day Prekindergarten Program—H.B. 130 [VETOED]

by Representative Diane Patrick et al.—Senate Sponsor: Senator Zaffirini et al.

Research overwhelmingly demonstrates that children who participate in high-quality prekindergarten (pre-k) programs are more successful academically, especially children who come from low-income families or who are English language learners. Children who attend such programs are more prepared for kindergarten and reading. Data show also that participants in high-quality pre-k are less likely to be retained in grade and therefore are less likely to drop out of school. Additionally, many parents with currently eligible children do not send them to public pre-k because they cannot leave work and pick their children up at noon. Being able to enroll children in full-day pre-k would allow many low-income and working families to take advantage of pre-k.

Currently, the state funds only half-day pre-k for eligible students with formula funding. In order to receive funding for full-day pre-k or expanded pre-k ("expanded" refers to pre-k offered to children three years of age or children who are from higher-income families), districts must either fund the expansion with local funds, or be awarded funding by the Texas Education Agency's (TEA) Early Start Grant (formerly known as the Pre-k Expansion Grant). The purpose of this legislation is to give school districts the opportunity to expand their pre-k programs from half-day to full-day for children who are currently eligible for pre-k under Texas law. This bill:

Requires a student enrolled in full-day pre-k to participate in moderate or vigorous daily physical activity for at least 30 minutes and requires the school district, to the extent possible, to require students enrolled in non-full-day pre-k to participate in the same type and amount of physical activity.

Requires a school district that participates in the enhanced quality full-day pre-k program (enhanced program) outlined in this legislation to include student-level results of reading instruments administered at the kindergarten and first and second grade levels in the district's Public Education Information Management System (PEIMS) report, and authorizes the commissioner of education (commissioner) to adopt an alternative reporting methods to allow a school

district to report these student-level results if the reading instrument used does not provide information in a form that can be reported to the Texas Education Agency (TEA) on the PEIMS report.

Requires the commissioner, from funds appropriated for that purpose, to establish a grant program to award grants to school districts to implement an enhanced program for eligible children.

Sets forth the priority in which the commissioner is required to consider when awarding grants to school districts and sets forth requirements of the enhanced program that the school district is to maintain to qualify for a grant.

Requires a school district that provides an enhanced program to use at least 20 percent of grant funds to contract with one or more eligible community providers to provide the enhanced program, authorizes the commissioner to waive this requirement under certain circumstances, and sets forth eligibility requirements of community providers who contract with school districts to provide an enhanced program.

Prohibits a community provider from denying enhanced program services to a student on the basis of the student's race, religion, sex, ethnicity, national origin, or disability.

Requires a school district operating an enhanced program to provide an annual report containing certain information to TEA not later than August 1 of each year and requires TEA to collect and report the information in a certain manner.

Prohibits the commissioner from requiring a district or recipient of grant funds to participate in the school readiness certification system.

Requires the Legislative Budget Board to conduct or contract for an evaluation of the effectiveness of the enhanced program regarding student performance outcomes, to deliver to the legislature an interim report containing preliminary results of the evaluation no later than December 1, 2012, and to deliver to the legislature a final report regarding the program no later than December 1, 2016.

Sets forth certain duties required of the commissioner, including the way in which the commissioner is required to determine the amount of grants awarded to school districts to implement an enhanced program.

Requires that funds provided for the operation of the enhanced program be paid directly to a public school district or open-enrollment charter school and prohibits funds from being awarded directly to a private or nonprofit child care provider or to a private school.

Provides that this Act does not make an appropriation and that it takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

Provides that this Act applies beginning with the 2009-2010 school year.

Notification of Availability of Prekindergarten Programs—H.B. 136

by Representative Villarreal et al.—Senate Sponsor: Senators Van de Putte and Zaffirini

In Texas, a child is eligible for public school prekindergarten (pre-k) if the child is at least three years old and unable to speak and comprehend the English language, educationally disadvantaged, homeless, the child of an active duty member of the armed forces of the United States, the child of a member of the armed forces who was injured or killed while on active duty, or is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversarial hearing.

Anecdotal evidence suggests that many parents of eligible children are not aware of their children's eligibility. Additionally, the number of children in kindergarten meeting one of the pre-k eligibility standards is much higher than pre-k enrollment during the previous year in many school districts, indicating that many eligible children do not enroll. School district representatives have indicated that they develop their own pre-k outreach and public notification strategies without information or guidance from the Texas Education Agency (TEA) regarding successful strategies. This bill:

Requires TEA to develop joint strategies with other state agencies regarding methods to increase community awareness of pre-k programs through programs that provide information relating to public assistance programs.

Authorizes TEA to develop outreach materials for use by school districts (district) to increase community awareness of pre-k programs.

Requires each district to report annually to TEA the strategies implemented by the district to increase community awareness of pre-k programs offered by the district.

Requires the district to report the information on a form prescribed by the commissioner of education.

Requires TEA, not later than December 1, 2010, to prepare and deliver to the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a report detailing strategies developed to increase community awareness of pre-k programs.

Disciplinary Action Against a Public School Student—H.B. 171

by Representative Olivo—Senate Sponsor: Senator Gallegos

Currently, the law requires the board of trustees (board) of an independent school district (district) to adopt a student code of conduct for a district. The code of conduct is required to specify certain factors, including whether consideration is given to certain factors in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion. This bill:

Requires the board of a district to specify that consideration will be given to certain factors in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action.

Required Excused Absences—H.B. 192

by Representative Alonzo et al.—Senate Sponsor: Senator Van de Putte

Currently, according to Section 25.087 (Excused Absences), Education Code, a school district is required to excuse a student from attending school for the following purposes: documented medical appointments, school-related absences approved by the school board (e.g., field trips), mentorship absences approved by the school district as part of the Advanced/Distinguished Achievement graduation plan, diagnostic testing for a Medicaid-eligible student, religious observance, required court appearance, or attendance at the funeral of a deceased veteran for the purpose of sounding "Taps."

The absences listed allow for the school district to receive average daily attendance funding despite the student being absent from school. Additionally, the Education Code allows a teacher, principal, or superintendent of the school, at his or her discretion, to issue an excused absence for any other reason. However, absences issued at the

discretion of a teacher, principal, or superintendent do not allow the district to receive average daily attendance funding. This bill:

Requires a school district to excuse a student from attending school for certain reasons, including appearing at a governmental office to complete paperwork required in connection with the student's application for United States (U.S.) citizenship or taking part in a U.S. naturalization oath ceremony.

Provides that a temporary absence includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health care practitioner, as described by Section 1355.015(b) (relating to certain conditions an individual providing treatment in relation to autism spectrum disorder), Insurance Code, to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

Required Continuing Education for Public School Principals—H.B. 200

by Representatives Heflin and Edwards—Senate Sponsor: Senator Seliger

Under current law, principals are required to participate in an assessment process to promote professional growth; however, this program does not directly lead to improvements on principals' individual campuses. This has resulted in an assessment system that is ineffective, expensive, and leaves many school districts short-staffed. A principal's supervisor may not view the results of the assessment and has no guidance on how to address a principal's strengths and weaknesses. Additionally, principals must leave their campuses to participate in the assessment program, so school districts are burdened with travel and workshop costs, and smaller districts are left short-staffed when their principals leave campus. This bill:

Repeals Section 21.054(b) (relating to an assessment of continuing education and an individualized professional growth plan for principals), Education Code.

Provides that this Act applies beginning with the 2009-2010 school year.

Grants for School-Based Health Centers and Submission of Reports—H.B. 281

by Representative Anchia et al.—Senate Sponsor: Senator West

H.B. 2202, enacted by the 76th Legislature, Regular Session, 1999, authorized the Department of State Health Services (DSHS) to fund school-based health centers (center) to provide a combination of physical and mental health services to students and family members of students. The centers not only provide preventive care but assist with issues that affect a student's learning and growth. Preference is given to centers in school districts located in rural areas or school districts that have low property wealth per student. Funding is only granted to school districts for a new center and lasts only three years. Many centers that have received funding have not been able to establish other sources of revenue to sustain the centers once the initial funding ceases. This bill:

Requires the commissioner of state health services to administer a program under which grants are awarded to assist school districts and local health departments, hospitals, health care systems, universities, or nonprofit organizations that contract with school districts with the costs of school-based health centers subject to the availability of federal or state appropriated funds.

Requires the commissioner of state health services, by rules adopted in accordance with this section, to establish procedures for awarding grants.

Requires that the rules provide that grants are awarded annually through a competitive process to schools districts and local health departments, hospitals, health care systems, universities, or nonprofit organizations that have contracted with school districts to:

- establish and operate school-based health centers;
- subject to the availability of federal or state appropriated funds, each grant is for a term of five years; and
- a preference is given to school-based health centers in school districts that are located in rural areas or that have low property wealth per student.

Prohibits a school district, local health department, hospital, health care system, university, or nonprofit organization from receiving more than \$250,000 per state fiscal biennium through awarded grants.

Prohibits a grant under this section from being given to a nonprofit entity that offers reproductive services, contraceptive services, counseling, or referrals, or any other services that require a license under Chapter 245 (Abortion Facilities), Health and Safety Code, or that is affiliated with a nonprofit organization that is licensed under Chapter 245, Health and Safety Code.

Authorizes a school district, local health department, hospital, health care system, university, or nonprofit organization receiving a grant to use the grant funds to establish a new school-based health center, expand an existing school-based health center, or operate a school-based health center.

Requires DSHS, based on statistics obtained from every school-based health center in this state that receives funding through DSHS, to issue a biennial report to the legislature about the relative efficacy of services delivered by the centers during the preceding two years and any increased academic success of students at campuses served by those centers, with special emphasis on any increased attendance.

Driver Education and Driver's Licensing Requirements—H.B. 339

by Representative Philips et al.—Senate Sponsor: Senator Carona

Each driver's license applicant under the age of 18 must take a comprehensive driver education course. For applicants age 18 and over, a driver education course is not required, but drivers must pass the standard written test given by the Department of Public Safety (DPS) as well as an on-road test. An applicant under the age of 18 may choose a course offered through a school district, open-enrollment charter school, or institution of higher education; a parent-taught course; or a licensed driver training school. Since the implementation of parent-taught programs, very few school districts have offered driver education courses. Texas restricts driving privileges of individuals below the age of 18 by enforcing driving curfews, limiting the age and number of passengers the individual may have in the vehicle, and prohibiting the use of cell phones while driving. This bill:

Requires a school district to consider offering a driver education and traffic safety course during each school year.

Authorizes the school district to conduct the course and charge a fee or contract with a driver education school to conduct the course.

Authorizes the commissioner of education (commissioner) to charge a certain fee to each driver education school.

Requires the commissioner, by rule, to establish or approve the curriculum and designate the textbooks to be used in a driver education course for minors and adults, including a driver education course conducted by a school district, driver education school, or parent or other individual.

Requires that a driver education course require a student to meet certain requirements.

Requires the commissioner by rule to establish the curriculum and designate the educational materials to be used in a driver education course exclusively for adults.

Requires the driver education course for adults to meet certain requirements.

Authorizes the driver education course for adults to be offered as an online course.

Prohibits a driving safety course or a drug and alcohol driving awareness program from being offered as a driver education course for adults.

Requires the commissioner, by rule, to include in the curriculum of each driver education course or driving safety course information concerning driving while using a wireless device or engaging in other actions that may distract the driver.

Specifies the grounds on which a license is denied.

Decreases the age, from 25 to 21, at which an applicant is required to state whether the applicant has completed a driver education course.

Prohibits DPS from issuing a driver's license to a person younger than 21 unless the person submits a driver education certificate.

Authorizes DPS to issue a Class C driver's license to an applicant under 18 years of age only if the applicant has submitted to DPS written parental or guardian permission for DPS to access the applicant's school enrollment records maintained by the Texas Education Agency (TEA).

Requires DPS by rule to provide for approval of a driver education course conducted by certain persons, including a foster parent.

Requires that the rules provide that the person conducting the driver education course meet certain requirements.

Requires DPS to collect and publish certain information regarding collision rate statistics.

Requires DPS and TEA to enter into a memorandum of understanding under which DPS may access TEA's electronic enrollment records to verify a student's enrollment in public school.

Provides that the fee for issuance of a provisional license or instruction permit is \$15, rather than \$5.

Sets forth certain restrictions for a person under 18 years of age concerning operating a motor vehicle following issuance of an original Class A, B, or C driver's license.

Sets forth certain restrictions for a person under 17 years of age concerning operating a motorcycle or moped.

TEA Authority Regarding Grants Benefitting Public Education—H.B. 635

by Representative Guillen et al.—Senate Sponsor: Senator Zaffirini

Currently, privately operated, stand-alone Head Start programs are not eligible to apply for all federal grants, including the E-Rate Grant, even though the services these programs provide are the same as those services provided in public school Head Start programs. Current Texas law does not define stand-alone Head Start programs as schools and federal requirements allow grant funds to go only to schools. This bill:

Authorizes the Texas Education Agency to seek, accept, and distribute grants awarded by the federal government or any other public or private entity for the benefit of public education, subject to the limitations or conditions imposed by the terms of the grants or by other law.

Authorizes the commissioner of education (commissioner), unless otherwise prohibited by federal law, to determine, solely for purposes of the program's eligibility to receive federal grant funds, for the purpose of technology services and support, that a Head Start program operated in this state by a school district or a community-based organization serves the function of an elementary school by providing elementary education at one or more program facilities.

Provides that a determination by the commissioner does not entitle a Head Start program to receive state funds for which the program would not otherwise be eligible, may not reduce the amount of federal grant funds available for school districts and open-enrollment charter schools, and may not be appealed.

Educator Excellence Awards Program—H.B. 709

by Representatives Rose and Guillen—Senate Sponsor: Senator Watson

The No Child Left Behind Act requires that every classroom be taught by a highly qualified teacher. One measure of this is the number of teachers who have obtained national certification through the National Board for Professional Teaching Standards, which sets rigorous standards for teacher knowledge and skills. Nationwide, 74,000 teachers have achieved this status. Currently, only 472 of these teachers work in Texas. One reason for this is that Texas offers no financial incentives for teachers to seek this rigorous and expensive credential. In 36 other states, teachers are rewarded for obtaining this certification with salary stipends, thus encouraging hundreds more teachers to seek this credential. This bill:

Requires school district to use at least 60 percent of grant funds awarded to the district to directly award classroom teachers who effectively improve student achievement as determined by meaningful, objective measures.

Requires that the remaining funds be used only for certain stipends, including providing stipends to classroom teachers who hold advanced certification from an organization that certifies at least 2,500 teachers in the United States each year based on the teachers' satisfaction, through study, expert evaluation, self-assessment, and peer review, of high and rigorous standards for accomplished teaching.

Provides that this Act applies beginning with the 2009-2010 school year.

Internet Broadcast of State Board of Education Open Meetings—H.B. 772

by Representative Donna Howard et al.—Senate Sponsor: Senator Wendy Davis

Chapter 551.128 (Internet Broadcast of Open Meeting), Government Code, gives a governmental body the option to broadcast an open meeting over the Internet. A governmental body choosing to exercise this option must establish an Internet site and provide access to the broadcast from that site. Since 2004, the Texas Education Agency (TEA) has provided only the audio feed from the State Board of Education (SBOE) meetings on its website. This bill:

Requires TEA, in a manner that complies with Section 551.128, Government Code, to broadcast over the Internet live video and audio of each open meeting held by SBOE.

Requires TEA, subsequently, to make available through TEA's Internet website archived video and audio for each meeting for which live video and audio was provided.

Appeals to the Commissioner of Education—H.B. 829

by Representative Hochberg—Senate Sponsor: Senator Shapiro

Public school laws of Texas are defined by Titles 1 (General Provisions) and 2 (Public Education), Education Code, and by rules adopted under those titles. Current law gives an individual the ability to appeal to the commissioner of education (commissioner) if the individual is aggrieved by the school laws of the state or by the actions or decisions of any school district board of trustees that violates school laws or a provision of an employment contract that may financially burden the employee. Once a grievance is appealed to the commissioner, there is no deadline for the commissioner to rule on that appeal.

A recent court ruling interpreted the Education Code in a way that would require an individual who has a cause of action arising from the open meetings laws to exhaust administrative remedies by taking his or her complaint to the commissioner prior to filing a challenge in court. This bill:

Provides that a person is not required to appeal to the commissioner before pursuing a remedy under a law outside of Title 1 or this title to which Title 1 or this title makes reference or with which Title 1 or this title requires compliance.

Requires the commissioner after due notice to the parties interested, not later than the 180th day after the date an appeal is filed, to hold a hearing and issue a decision without cost to the parties involved.

Provides that this Act does not deprive any party of any legal remedy.

Possession of Firearms by Students at Certain School-Sponsored Programs—H.B. 1020

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

The State of Texas Education Code requires the expulsion of a student from school for the student's use, exhibition, or possession of a firearm on school property or while in attendance at a school-sponsored or school-related activity on or off school property. This provision effectively precludes a student's participation in or preparation for school-sponsored shooting sports competitions or other legitimately sanctioned shooting sports educational activities. This bill:

Prohibits a student from being expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs at an approved target range facility that is not located on a school campus and while participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Texas Parks and Wildlife Department (TPWD) or a shooting sports sanctioning organization working with TPWD.

Provides that Section 37.007(k), Education Code, does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity described by that subsection.

Provides that this Act applies beginning with the 2009-2010 school year.

Strategy to Reduce Child Abuse and Neglect and Improve Child Welfare—H.B. 1041

by Representative Parker et al.—Senate Sponsor: Senators West and Uresti

Training more people to identify the signs of child sexual abuse and to prevent further child sexual abuse from occurring better equips Texans to tackle the problem. Teachers and school personnel, as well as parents, interact with children daily in school districts throughout Texas and need the latest tools and information to combat this problem. This bill:

Requires this Act to be known as Jenna's Law.

Requires each school district to adopt and implement a policy addressing sexual abuse of children to be included in the district improvement plan under Section 11.252 (District-Level Planning and Decision-Making) and any informational handbook provided to students and parents.

Requires that a policy required by this section address methods for increasing teacher, student, and parent awareness of issues regarding sexual abuse of children, including knowledge of likely warning signs indicating that:

- a child may be a victim of sexual abuse, using resources developed by the Texas Education Agency under Section 38.004 (Child Abuse Reporting and Programs);
- actions that a child who is a victim of sexual abuse should take to obtain assistance and intervention; and
- available counseling options for students affected by sexual abuse.

Sets forth the composition and requirements of a task force established under this section to establish a strategy for reducing child abuse and neglect and improving child welfare.

Requires the task force to establish a strategy for reducing child abuse and neglect and for improving child welfare in this state.

Requires the governor, lieutenant governor, and speaker of the house of representatives to appoint the members of the task force not later than October 1, 2009.

Requires the task force, not later than November 1, 2010, to submit the strategic plan to the governor, lieutenant governor, and speaker of the house of representatives.

Provides that the task force is abolished on September 1, 2011.

Optional Flexible School Day Program Courses—H.B. 1297

by Representative Hochberg et al.—Senate Sponsor: Senator Van de Putte

Under current Texas law, if a student fails to meet minimum attendance requirements he or she may be required to repeat an entire course or school year. While research shows that students who repeat a grade have a higher risk of dropping out of school, there are no funds available for schools to provide students with the option to make up only the days needed to earn credit, rather than an entire course or school year. This bill:

Authorizes a school district, notwithstanding Section 25.081 (Operation of Schools) or 25.082 (School Day; Pledges of Allegiance; Minute of Silence), to apply to the commissioner of education (commissioner) to provide a flexible school day program for certain students, rather than students in grades nine through 12, including those who, as a result of attendance requirements under Section 25.092 (Minimum Attendance For Class Credit), will be denied credit for one or more classes in which students have been enrolled.

Creates an exception in the case of a course designed for certain students who will be denied credit due to attendance requirements.

Authorizes the commissioner to limit funding for the attendance of a student in certain courses to funding only for the attendance necessary for the student to earn class credit that, as a result of attendance requirements under Section 25.092, Education Code, the student would not otherwise be able to receive without retaking the class.

Authorizes certain students to enroll in a course in a program under this section offered during the school year or during the period in which school is recessed for the summer to enable the student to earn a class credit that, as a

result of attendance requirements under Section 25.092, Education Code, the student would not otherwise be able to receive without retaking the class.

Provides that this Act applies beginning with the 2009-2010 school year.

Establishment of On-line Resources for Certain Teachers—H.B. 1322

by Representative Hochberg—Senate Sponsor: Senator Watson

Teachers need access to accurate and valuable information so that they may meet the individual needs of students and provide a safe and secure learning environment for every student in the classroom. Increasing the quality of classroom learning environments makes many students feel more comfortable and therefore they are able to learn better knowing that the teacher is aware of their unique circumstances. A well-informed teacher can help prevent medical complications. This bill:

Requires the Texas Education Agency (TEA), in coordination with the Health and Human Services Commission, to establish and maintain an Internet website to provide resources for teachers who teach students with special health needs.

Requires TEA to include on the website information about the treatment and management of chronic illnesses and how such illnesses impact a student's well-being or ability to succeed in school and food allergies that are common among students, including information about preventing exposure to a specific food when necessary to protect a student's health and information about treating a student suffering from an allergic reaction to a food.

Failure of Students to Return School Textbooks and Technological Equipment—H.B. 1332

by Representatives Maldonado and Strama—Senate Sponsor: Senator Gallegos

As schools become more technologically advanced, so too does the equipment that schools provide to students. A school needs to be allowed to recoup the costs of textbooks, electronic textbooks, laptop computers, and all electronic equipment from students or their parents if they are not returned to the school in an acceptable condition. In certain circumstances, the school district should have the option to waive the payment if the student is from a low-income family. This bill:

Provides that each student, or the student's parent or guardian, is responsible for each textbook, including an electronic textbook, and all technological equipment not returned in an acceptable condition by the student.

Provides that a student who fails to return in an acceptable condition all textbooks, including electronic textbooks, and technological equipment forfeits the right to free textbooks, including electronic textbooks, and technological equipment until each textbook, including an electronic textbook, and all technological equipment previously issued but not returned in an acceptable condition is paid for by the student, parent, or guardian.

Requires the school district or open-enrollment charter school to allow the student to use textbooks, including electronic textbooks, and technological equipment at school during each school day.

Authorizes a district or school, if a textbook, including an electronic textbook, or technological equipment is not returned in an acceptable condition or paid for, to withhold the student's records.

Requires the commissioner of education by rule to adopt criteria for determining whether a textbook, including an electronic textbook, and technological equipment are returned in an acceptable condition.

Provides that this Act applies beginning with the 2009-2010 school year.

Service Records of School District Professional Staff—H.B. 1365*by Representative Eissler—Senate Sponsor: Senator Shapiro*

Educator service records are used by districts for placing educators on the districts' local salary schedules. In addition, for those districts that do not pay above the minimum salary schedule, they are also used for placement on the state minimum schedule. The service records are to be used by the employing district. Once a teacher leaves an employing district, the service record should then be transferred to the teacher or the new employing district. A growing number of teachers have complained that districts are holding teacher service records hostage for various reasons, such as coercing teachers to sign releases. This bill:

Provides that on request by a classroom teacher, librarian, counselor, or nurse, or by the school district employing one of those individuals, a school district that previously employed the individual is required to provide a copy of the individual's service record to the school district employing the individual.

Requires the district to provide the copy not later than the 30th day after the later of the date the request is made or the date of the last day of the individual's service to the district.

Requires the Texas Education Agency (TEA), if a school district fails to provide an individual's service record, to the extent that information is available to TEA, to provide the employing school district with information sufficient to enable the district to determine proper placement of the individual on the district's salary schedule.

Provides that this Act applies beginning with the 2009-2010 school year.

Granting Charters to Junior Colleges for Open-Enrollment Charter Schools—H.B. 1423*by Representative Guillen et al.—Senate Sponsor: Senator Shapiro*

Currently, university-sponsored charter schools are exempt from the statewide cap on charter schools. Junior colleges are eligible to offer charter schools, but they fall under the charter school cap that allows a maximum of 215 charter schools in the state. This bill:

Authorizes the State Board of Education (SBOE), in accordance with Subchapter D (Open-Enrollment Charter School), Chapter 12 (Charters), Education Code, to grant a charter on the application of a public junior college for an open-enrollment charter school to operate on the campus of the public junior college or in the same county in which the campus of the public junior college is located.

Authorizes SBOE, notwithstanding Section 12.110(d) (relating to SBOE approving or denying an application based on certain criteria), Education Code, to grant a charter to a public senior college or university only if certain criteria are satisfied in the public senior college's or university's application, as determined by SBOE.

Authorizes SBOE, notwithstanding Section 12.110(d), Education Code, to grant a charter under this subchapter to a public junior college or university only if certain criteria are satisfied in the public junior college's application, as determined by SBOE.

Requires that the name of a college or university charter school or junior college charter school include the name of the public senior college or university or public junior college, as applicable, operating the school.

Notification of Entitlement to Leave Time for School District Employees—H.B. 1470

by Representative Thibaut—Senate Sponsor: Senator Van de Putte

Current law provides for assault leave; however, school districts are not required to notify employees that they have certain rights when they are assaulted while performing their duties for the school district. Because of this, most employees are unaware that they have such rights, and therefore, they do not exercise those rights. This bill:

Requires that any informational handbook a school district provides to employees in an electronic or paper form or makes available by posting on the district website include notification of an employee's rights in the relevant section of the handbook.

Requires that any form used by a school district through which an employee may request leave include assault leave as an option.

Provides that this Act applies beginning with the 2009-2010 school year.

Extending the High School Innovation Grant Initiative—H.B. 2263

by Representatives Eissler and Gutierrez—Senate Sponsor: Senator Shapiro

The importance of ensuring that all Texas students are prepared for postsecondary education or employment is receiving focused attention. To attain the goal of graduating more students from Texas school systems who are prepared to achieve postsecondary success, the preparatory work cannot begin at the high school level. Middle and junior high schools must be part of the ongoing effort to effectively prevent dropouts and promote high school completion and postsecondary readiness. This bill:

Authorizes the commissioner of education (commissioner), from funds appropriated for that purpose, to establish a grant program under which grants are awarded to middle, junior high, and high school campuses and school districts to support the implementation of innovative improvement programs that are based on the best available research regarding:

- middle, junior high, or high school reform, dropout prevention, and preparing students for postsecondary coursework or employment;
- certain education practices; and
- the alignment of certain grants and programs.

Authorizes the commissioner, before awarding a grant, to require a campus or school district to obtain local matching funds; or meet other conditions, including developing a personal graduation plan under Section 28.0212 (Personal Graduation Plan), Education Code, for each student enrolled at the campus or in a district middle, junior high, or high school.

Certain Agreements With Public Junior Colleges—H.B. 2480

by Representatives Hochberg and Guillen—Senate Sponsor: Senator Seliger

Dual credit courses provide an important opportunity for high school students across Texas to earn college and high school credits simultaneously. Currently, a school district and a public junior college that wish to offer dual credit courses may enter into an agreement only if the school district is within the junior college district's service area. In certain cases the course offerings at the junior college with which a school district must contract are not aligned with the school district's expectations or needs. This bill:

Authorizes a public junior college to enter into certain agreements with a school district, organization, or other person that operates a high school to offer a course regardless of whether the high school is located within the service area of the junior college district.

Authorizes a public junior college to enter into certain agreements with respect to a high school located within the service area of another junior college district only if the other junior college district is unable to provide the requested course to the satisfaction of the school district.

Open-Source Textbooks and Instructional Materials for Public Schools—H.B. 2488

by Representative Hochberg—Senate Sponsor: Senator Ogden

The State Board of Education (SBOE) needs to adopt open-source textbooks for secondary courses submitted by certain institutions of higher education or public technical institutes in Texas. The institutions that submit open-source textbooks should be required to certify that high school students who successfully complete courses based on their materials will be prepared for postsecondary-level course work without remediation. This bill:

Requires each school district and open-enrollment charter school to annually certify to SBOE and the commissioner of education (commissioner) that, for each subject in the required curriculum and each grade level, the district provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by SBOE for that subject and grade level.

Requires SBOE to place an open-source textbook for a secondary-level course that meets certain conditions and is submitted for adoption by an eligible institution on a conforming or nonconforming list.

Authorizes SBOE to execute a contract for the printing of an open-source textbook listed on the conforming or nonconforming list.

Authorizes the commissioner to purchase state-developed open-source textbooks.

Requires the state to have unlimited authority to modify, delete, combine, or add content to the textbook after purchase.

Authorizes the commissioner to issue a request for proposals for a state-developed open-source textbook in accordance with the textbook review and adoption cycle under Section 31.022 (Textbook Review and Adoption), or at any other time the commissioner determines that a need exists for additional textbook options.

Requires a state-developed open-source textbook to be evaluated by teachers or other experts, as determined by the commissioner, before the purchase, and meet the requirements for inclusion on a conforming and nonconforming textbook list under Section 31.023 (Text Book Lists), Education Code.

Requires the commissioner to provide for special and bilingual state-developed open-source textbooks in the same manner provided under Sections 31.028 (Special Textbooks) and 31.029 (Bilingual Textbooks).

Requires the commissioner to determine the cost to a school district or open-enrollment charter school for a state-developed open-source textbook in an amount sufficient to cover state expenses associated with the textbook, including expenses incurred by the state soliciting, evaluating, revising, and purchasing the textbook.

Requires the difference between the cost determined by the commissioner and the maximum price for a textbook in the same subject area, as determined by SBOE under Section 31.025 (Limitation of Cost), to be allocated as follows:

- 50 percent of the amount is required to be credited to the state textbook fund; and

- 50 percent of the amount is required to be credited to the school district or open-enrollment charter school.

Provides that a state-developed open-source textbook is the property of the state.

Provides that a decision by the commissioner regarding the purchase, revision, cost, or distribution of a state-developed open-source textbook is final and is prohibited from being appealed.

Requires a school district or open-enrollment charter school that selects an open-source textbook to requisition a sufficient number of printed copies for use by students unable to access the textbook electronically unless the district or school provides to each student:

- electronic access to the textbook at no cost to the student; or
- printed copies of the portion of the textbook that will be used in the course.

Audio Recording of Certain School District Grievance Proceedings—H.B. 2512

by Representative Aycock—Senate Sponsor: Senator Wendy Davis

Currently, it is at the discretion of a hearing officer, usually an administrator, to determine whether a school district employee filing a grievance may record the grievance conference. Given the power held by an administrator in this regard, employees may be reluctant even to ask whether they may audiotape a grievance hearing. This bill:

Requires that a school district grievance policy permit a school district employee to report a grievance against a supervisor that alleges the supervisor's violation of the law in the work place or the supervisor's unlawful harassment of the employee to a supervisor other than the supervisor against whom the employee intends to report the grievance.

Requires that a school district grievance policy permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of a grievance that complies with the policy is investigated or discussed.

Provides that implementation may not result in a delay of any timeline provided by the grievance policy and does not require the district to provide equipment for the employee to make the recording.

Excused Absences for Purposes of Visiting Institutions of Higher Education—H.B. 2542

By Representative Eissler et al.—Senate Sponsor: Senator Van de Putte

Current projections indicate that Texas will have lower levels of educational attainment by 2040 than it has today. For that reason, the Texas Legislature has shifted the focus of high school graduation from an undefined notion of high school proficiency to a concept of postsecondary readiness. However, to actually increase education attainment, Texas students must make informed choices about their studies after high school graduation. This bill:

Authorizes a school district to excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that the district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year, and the district adopts a policy to determine when an absence will be excused for this purpose and a procedure to verify the student's visit at the institution of higher education.

Prohibits a student whose absence is excused from being penalized for that absence and requires that the student be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district.

Requires that a student whose absence is excused be allowed a reasonable time to make up school work missed on those days.

Requires that the day of absence be counted as a day of compulsory attendance if the student satisfactorily completes the school work.

Provides that this Act applies beginning with the 2009-2010 school year.

Audits of Certain County Departments of Education—H.B. 2549

by Representative John Davis—Senate Sponsor: Senator Dan Patrick

Current law requires county auditors in certain counties, such as Harris County, to audit the county department of education. Few county education departments still exist, and any that do are now separate political subdivisions from the county, thereby removing the county's authority to approve the department of education's tax rate, debt issuance, or annual budget. This bill:

Authorizes, rather than requires, the county auditor in a county with a population of three million, rather than two million, or more to audit certain financial records relating to the financial aspects of any contractual relationship between the county and the county department of education.

Requires the county department of education to periodically have prepared by an independent auditor an audit of certain financial records relating to funds handled by the county department of education, and requires the county department of education to deliver a copy of such audit to the commissioners court of the county.

Classification of a Retained Prekindergarten or Kindergarten Student—H.B. 2703

by Representative Olivo—Senate Sponsor: Senator Gallegos

The Texas Education Code contains criteria that designate a public school student as a "student at risk of dropping out of school," ranging from failing grades to disciplinary problems to involvement with the criminal justice system. A student who does not advance from one grade to the next for one or more school years receives such a designation. The non-advancement criteria makes sense for a student retained for unsatisfactory academic performance. However, a parent will sometimes voluntarily retain a child in prekindergarten (pre-k) or kindergarten solely for developmental reasons, perhaps because the child has a birthday late in the year, giving the child more time to mature before progressing through elementary school.

Developmental retention of a child with a late birthday is recommended by many educators and developmental counselors. However, the Education Code makes no distinction between the developmental retention of a pre-k or kindergarten student by the parent and the retention of a pre-k or kindergarten student because of unsatisfactory academic performance. This bill:

Provides that a student is not considered a student at risk of dropping out of school if the student did not advance from pre-k or kindergarten to the next grade level only as the result of the request of the student's parent.

Provides that this Act applies beginning with the 2009-2010 school year.

Regulation of Industrialized Housing and Buildings—H.B. 2763

by Representative Kuempel—Senate Sponsor: Senator Eltife

Section 46.008(b) (relating to inspection requirements for certain buildings), Education Code, authorizes the Texas Education Agency to inspect relocatable educational facilities. Currently, the Texas Department of Licensing and Regulation has regulatory authority over industrialized buildings, including relocatable educational facilities. This bill:

Provides that industrialized housing does not include a residential structure that exceeds three stories or 49 feet in height.

Requires a relocatable educational facility that is purchased or leased on or after January 1, 2010, to comply with all provisions applicable to industrialized buildings.

Requires the owner of an industrialized building designed to be transported from one commercial site to another that bears an approved decal or insignia indicating the building complies with the mandatory building codes and that is modified or altered after the date the Texas Industrialized Building Code Council (council) adopts a new mandatory building code or the council approves a building code amendment to ensure that the modified or altered building complies with the requirements and standards of the new building code or amendment to the extent required by the most recent edition of the International Existing Building Code adopted by the council.

Repeals Section 46.008(b) (relating to inspection requirements for certain buildings), Education Code.

Technology Demonstration Sites Project—H.B. 2893

by Representative Hochberg—Senate Sponsor: Senator Shapleigh

The Texas Technology Immersion Project (TxTIP), created by the 78th Legislature, Regular Session, 2003, was built on the assumption that immersion in technology, rather than a gradual introduction over time, leads to more effective technology use and positive academic outcomes in schools. Under TxTIP, participating public schools were equipped with laptops for every teacher and student, as well as technology-based learning resources, training for teachers, and technical support. In order to monitor the progress of the program, the Texas Center for Educational Research (TCER) partnered with the Texas Education Agency (TEA) to conduct a four-year evaluation of TxTIP and to look at the impact of technology immersion on teaching and learning. One major finding of the study was that home learning, or the extent to which students use laptops outside of school for homework or learning games, was the strongest predictor of students' TAKS reading and mathematics scores. This bill:

Authorizes TEA by rule to establish the technology demonstration sites project (project) to demonstrate the use of technology for improving teaching and learning, use digital tools and resources to extend learning opportunities from school to home, and exemplify instructional practices and lessons that support academic learning in the classroom and at home.

Requires the project to use existing home electronic devices or provide access through electronic device checkout options to extend learning at home, rather than provide a wireless mobile computing device.

Requires the project to make electronic devices available to each student in a participating school to allow students, at school and at home, to use, rather than implement the use of, software, online courses, and other appropriate learning technologies that have been shown to improve academic achievement and the progress measures listed in Section 32.155(e) (relating to an annual progress report covering certain topics), Education Code.

Requires TEA, in administering the project to, among other things, define the conditions for the distribution and use of electronic devices not currently available to all students, develop guidelines for a distribution and checkout plan for

home use of electronic devices, monitor local project implementation, and review the progress made through each demonstration site included in the project.

Authorizes a school district to apply to TEA for the establishment of a technology demonstration sites project for the entire district or for a particular school or group of schools in the district.

Requires TEA to select the participating districts and schools for the project based on each district's or school's need and technological readiness for the project.

Requires TEA to select at least five school districts to participate in the project.

Provides that at least one demonstration site included in the project should include students in grades 6-12.

Authorizes TEA to select at least one school district in which each school in the district participates in the project.

Authorizes TEA to include the review of the project in the comprehensive annual report required under Section 39.182 (Comprehensive Annual Report) that covers the 2012-2013 school year.

Requires the commissioner of education (commissioner) by rule to establish a computer lending pilot program (pilot program) to provide computers to participating public schools that make computers available for use by students and their parents.

Requires the commissioner to establish procedures for the administration of the pilot program, including procedures for distributing to participating public schools any surplus salvage data processing equipment available for distribution under the pilot program or computers donated or purchased for that purpose with funds from any available source, including a foundation, private entity, governmental entity, and institution of higher education.

Sets forth eligibility for a public school's participation in the pilot program.

Public School Reporting Requirements—H.B. 3041

by Representative Farias—Senate Sponsor: Senator Van de Putte

School districts report data to many entities, including the Texas Education Agency (TEA) as well as other state and federal agencies. They are challenged to be knowledgeable of different reporting requirements and deadlines on various performance measures—educational, financial and operations—that occur throughout the school year and may change periodically. The reporting demand is magnified for smaller districts, which often rely on a limited number of staff to keep informed about reporting requirements and deadlines.

TEA and regional education service centers provide information about many of the reporting requirements. However, TEA does not provide districts with a comprehensive schedule of reporting requirements with deadlines from TEA and other organizations. Without a comprehensive schedule of report deadlines and data requested by TEA and others, districts must maintain their own schedule in order to comply with various regulations and to avoid missing funding opportunities for various educational programs for their students. This bill:

Requires TEA, to the extent possible, to develop and maintain a comprehensive schedule that addresses each reporting requirement generally applicable to a school district, including requirements imposed by a state agency or entity other than TEA, and that specifies the date by which a school district is required to comply with each requirement.

Requires a state agency that requires a school district to periodically report information to that agency to provide TEA with information regarding the reporting requirement as necessary to enable TEA to develop and maintain the required schedule.

Requires TEA to determine the appropriate format of the required schedule and the manner in which the schedule is made readily accessible to school districts.

Parenting and Paternity Awareness Program—H.B. 3076

by Representative Deshotel et al.—Senate Sponsor: Senator West

The 80th Legislature, Regular Session, 2007, enacted H.B. 2176 requiring a school district to incorporate a parenting and paternity awareness program, developed by the State Board of Education in conjunction with the Office of the Attorney General, in the high school health curriculum.

However, according to some studies, the problem starts long before high school, with an estimated 14 percent of 6th graders, 20 percent of 7th graders, and 30 percent of 8th graders reported as being sexually active and more than 1,200 13-year-old to 14-year-old girls getting pregnant each year. This bill:

Authorizes a school district to use the parenting and paternity awareness program (program) developed under Section 28.002(p), Education Code, in the district's middle or junior high school curriculum.

Authorizes a teacher, at the discretion of the district, to modify the suggested sequence and pace of the program at any grade level.

Requires that the program, in district middle, junior high, or high schools that do not have a family violence prevention program, address skills relating to the prevention of family violence.

Authorizes a school district to develop or adopt research-based programs and curriculum materials for use in conjunction with the program.

Authorizes the programs and curriculum materials to provide instruction in child development; parenting skills, including child abuse and neglect prevention; and assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.

Requires the Texas Education Agency to evaluate programs and curriculum materials and distribute to other school districts information regarding those programs and materials.

Prohibits a student under 14 years of age from participating in a program without the permission of the student's parent or person standing in parental relation to the student.

Provides that this Act applies beginning with the 2009-2010 school year.

Public School Prekindergarten Classes—H.B. 3643

by Representative Aycock et al.—Senate Sponsor: Senator Van de Putte

The Texas Legislature increased the eligibility for free public school prekindergarten to the children of active duty members of the United States Armed Forces, including the state military forces or a reserve component of the armed forces. Free public kindergarten is also extended to the children of military personnel injured or killed while on active duty.

After the extension of prekindergarten eligibility to military families, the Texas Education Agency received reports of multiple school districts not including stepchildren of military personnel in their definition of children eligible for free prekindergarten. This bill:

Provides that "child" includes a stepchild and "parent" includes a stepparent.

Provides that this Act applies beginning with the 2009-2010 school year.

Public School Finance—H.B. 3646

by Representative Hochberg et al.—Senate Sponsor: Senator Shapiro et al.

Under current law, school district state funding is based largely on a formula related to revenue in 2005-2006 or 2006-2007. The purpose of this legislation is to return, to the extent possible, to a formula-driven public school finance system that improves equity, reduces recapture, provides increases in educator salaries, and addresses unintended consequences of H.B. 1 passed during the 79th Legislature, 3rd Called Session, 2006. This bill:

Adds to the list of core services that each regional education service center is required to maintain training and assistance in providing instruction in personal financial literacy as require under Section 28.0021 (Personal Financial Literacy).

Sets forth the formula used to calculate funding to which an open-enrollment charter school is entitled, and sets forth certain adjustments made in determining funding for an open-enrollment charter school based on the average adjustment for the state and entitles a charter holder to receive enrichment funding based on the state average tax effort.

Requires each charter holder that on January 1, 2009, operated an open-enrollment charter school to increase, applicable to the 2009-2010 school year, the monthly salary of each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor, and full-time school nurse by an amount calculated in a certain manner.

Entitles the Windham School District, established by the Texas Board of Criminal Justice to operate schools at various facilities of the Texas Department of Criminal Justice, to state aid in the amount necessary to fund a required salary increase, applicable beginning with the 2009-2010 school year, for each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor, and full-time school nurse in an amount calculated in a certain manner.

Requires each school district, for the 2009-2010 and 2010-2011 school years, to increase the monthly salary of each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor, and full-time nurse by an amount calculated in a certain manner. Provides that this increase in salary does not include any amount the employee would have received under the district's salary schedule, including any local supplement the employee would have received. Provides that this provision is not intended to require an increase in the second year of the biennium beginning September 1, 2009.

Entitles a classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor, or full-time school nurse employed by a school district in the 2010-2011 school year to a salary that is at least equal to the salary the employee received for the 2010-2011 school year.

Authorizes the commissioner of education (commissioner) to adopt rules that specify the credentials a person is required to hold to be considered a speech pathologist.

Requires the commissioner, each state fiscal year (FY), to deposit an amount determined by the General Appropriations Act (GAA) to the credit of the educator excellence fund in the general revenue fund (GR), rather than

to deposit the sum of \$1,000 multiplied by the number of classroom teachers in this state to the credit of the educator excellence fund in GR. Deletes an existing provision prohibiting the Texas Education Agency (TEA) from using more than \$100 million of the funds in the educator excellence fund to provide grant awards under the awards for student achievement program.

Requires a school district to use at least 60 percent of educator excellence funds granted to the district to directly award classroom teachers and principals, rather than just teachers, who effectively improve student achievement. Removes an existing provision requiring remaining funds to be used to provide stipends to classroom teachers who hold postgraduate degrees. Includes funding for previously developed incentive programs to be added to the list of permitted uses of remaining funds.

Provides that a school district is not required to pay a student's tuition or other associated costs for taking a course under the college credit program.

Requires the commissioner to make special education grants available to school districts to assist in covering the cost of educating students with disabilities. Sets forth eligibility requirements for and duties of a school district related to special education grants. Provides that this provision does not make an appropriation and is not mandatory during a fiscal period for which the legislature has not made specific appropriation to implement that provision.

Requires the commissioner, when considering which districts will receive funds for optional extended year programs, to give priority to districts with high concentrations of educationally disadvantaged students.

Modifies existing attendance requirements relating to determining funding for flexible school day programs.

Requires the commissioner to prioritize districts in a certain way in determining the distribution of funds for a life skills program for student parents.

Modifies eligibility requirements for students to obtain a subsidy to cover costs for a certification examination under the career and technology education program.

Increases from 25 to 100 the number of districts allowed to be selected by TEA to participate in the financial literacy pilot program and requires TEA to provide members of the legislature a report relating to its implementation and effectiveness by January 1, 2011.

Amends provisions related to authorization and requirements of certain electronic courses and programs administered under the state virtual school network (TxVSN).

Sets forth the conditions that must be met for an open-enrollment charter school campus to act as a provider school to certain students.

Requires TEA, rather than a school district, open-enrollment charter school, or public or private institution of higher education, to cover costs related to the administration of electronic courses and provides the way in which funding for courses are to be prioritized. Authorizes a school district, open-enrollment charter school, or public or private institution of higher education to pay the costs if TEA is unable to pay the costs due to shortage of funds available for that purpose.

Requires the commissioner to establish qualifications and professional development requirements applicable to college instructors providing instruction in dual credit courses through TxVSN.

Authorizes a school district or open-enrollment charter school, subject to approval by TEA, to provide professional development courses to teachers seeking to become authorized to teach electronic courses provided through TxVSN.

Entitles a school district or open-enrollment charter school to receive federal, state, and local funding for a student enrolled in a full-time electronic course program offered through TxVSN in an amount equal to the funding the district or school would otherwise receive for a student enrolled in the district or school. Amends existing provisions regarding authorized fees that a school district or open-enrollment charter school can charge students enrolled in a course offered through TxVSN.

Requires the commissioner to distribute funds for school counselors and counseling programs by giving preference to a school district that received these funds in the preceding school year and then to districts that have the highest concentration of students at risk of dropping out of school. Requires a school district to take certain actions in order to receive these funds.

Requires that the cost of preparing, administering, or grading certain assessment instruments and releasing the question and answer keys be paid from amounts appropriated to TEA, rather than paid from certain allotted funds, by the district, or deducted from other foundation school fund allotments.

Amends the maximum amount allowed for a district's wealth per student.

Deletes an existing provision authorizing the commissioner to approve a special financial arrangement between districts, one of which has a wealth per student that exceeds the equalized wealth level, if that arrangement serves the best educational interests of the state. Authorizes the commissioner to provide for the continuation of an agreement in existence during the 2008-2009 school year, notwithstanding the removal of this provision by this legislation, if the commissioner determines that the agreement benefits the education of students in those districts.

Sets forth limitations on the amount of state and local maintenance and operations revenue per student in weighted average daily attendance that a school district receives in any school year, provides that enrichment revenue is not included for purposes of determining this limitation, requires the commissioner to make adjustments to amounts due to a school district to comply with this limitation, and prohibits the commissioner's determination from being appealed.

Amends the basic allotment to which a district is entitled for each student in average daily attendance, applicable to the 2013-2014 school year, to equal the lesser of \$4,765 or the amount resulting from \$4,765 multiplied by the district's compressed tax rate divided by the state maximum compressed tax rate. Provides that, for the 2009-2010 through 2012-2013 school years, each reference to "\$4,765" equals an amount to the greater of \$4,765 or the amount of equal to the product of .0165 and the average statewide property value per weighted student.

Entitles a school district that contracts for students residing in the district to be educated in another district to receive an allotment equal to the total amount of tuition required to be paid by the district, rather than by adjusting the taxable value of the district's property.

Entitles a school district additional annual compensatory education allotments to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other students and sets forth the manner in which this allotment is calculated.

Entitles a school district, for each full-time equivalent student in average daily attendance in an approved career and technology education program in grades nine through 12 or in career and technology education programs for students with disabilities in grades seven through 12, an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35 and, under certain circumstances, \$50.

Requires SBOE, under certain circumstances, to increase indirect cost allotments to reflect the increased percentage of total maintenance and operations funding represented by the basic allotment as a result of changes made by this legislation.

Establishes TxVSN allotments and high school allotments, and sets forth the way in which funds are to be distributed.

Modifies the way in which state funding for tax rate reduction for school districts is calculated.

Requires the commissioner to provide South Texas Independent School Districts with a certain amount of state aid necessary to ensure that the district receives an amount of state and local revenue per student in weighted average daily attendance that is at least \$120 greater than the amount the district would have received per student in weighted average daily attendance during the 2009-2010 school year at a maintenance and operations tax rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, provided that the district imposes a maintenance and operations tax at that rate.

Modifies the formula used to calculate each district's share of the Foundation School Program (FSP) to provide that the tax rate which for each hundred dollars of valuation is an effective tax rate of the amount equal to the product of the state compression percentage multiplied by the lesser of \$1.50 or the maintenance and operations tax rate adopted by the district for the 2005 tax year.

Requires certain state aid to be paid to school districts by specific deadlines and in a certain manner.

Modifies the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort for a school district under the formula for the guaranteed yield program.

Establishes the Select Committee on Public School Finance Weights, Allotments, and Adjustments to conduct a comprehensive review of weights, allotments, and adjustments under the public school finance system. Sets forth the composition, meetings requirements, compensation and reimbursement, report requirements, and additional duties of the committee.

Requires a school district to adopt a policy governing the expenditure of local funds from vending machines, rentals, gate receipts, or other local sources of revenue and provides that the policy meet certain requirements. Provides that this provision applies to any expenditure of campus discretionary funds that occurs on or after September 1, 2009, regardless of the date on which the funds were raised.

Authorizes SBOE to establish a percentage of the cost value of the permanent school fund (PSF) to be reserved from use in guaranteeing bonds and requires the state auditor to analyze the status of the reserved portion compared to the cost value of PSF and to certify whether the reserved portion of PSF satisfies the reserve percentage established.

Authorizes the commissioner to order a school district to set an ad valorem tax rate capable of producing an amount of revenue sufficient to enable the district to provide reimbursement and pay the principal of and interest on district bonds as the principal and interest become due. Authorizes the commissioner to impose a sanction on the district if it fails to comply with the commissioner's order.

Authorizes an independent school district and an institution of higher education to contract for the district to contribute district resources to pay a portion of the costs of the design or construction of an instructional facility or a stadium or other athletic facilities owned by or under the control of the institution of higher education.

Authorizes one or more independent school districts and an institution of higher education to contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility owned by or under the control of the institution of higher education.

Establishes the intercept credit enhancement program, authorizing certain school districts to apply for credit enhancement of bonds by money appropriated for FSP. Sets forth eligibility requirements, application guidelines, procedures for investigating applicant school districts, conditions that must be met for the commissioner to endorse

bonds for credit enhancement, payment procedures, reimbursement requirements of FSP, and actions that must be taken if a district fails to pay on bonds under the guarantee program or the credit enhancement program.

Establishes the open-enrollment charter school facilities credit enhancement program to assist charter holders in obtaining financing for the purchase, repair, or renovation of real property, including improvements to real property, for facilities of open-enrollment charter schools. Sets forth participation requirements, the amount which the commissioner is authorized to allocate, and requirements related to private matching funds and repayment.

Requires that an election to ratify a tax rate adopted by the governing body of a school district be ordered not later than the 30th day before election day and requires the governing body to deliver notice of the election to the county clerk of each county in which the school district is located not later than the 30th day before election day.

Requires the chief appraiser, no later than April 30 rather than June 7, to prepare and certify to the assessor for each county, municipality, and school district participating in the appraisal district an estimate of the taxable value of property in that taxing unit.

Requires the commissioner, in collaboration with the commissioner of higher education, to conduct a study of dual credit programs and courses and to make recommendations to the 82nd Legislature based on the results of that study.

Requires TEA to conduct certain studies regarding funding for electronic courses, making language acquisition courses available through TxVSN, and creating courses provided through TxVSN for students in alternative education settings, and to submit a report of its findings and recommendations to the legislature.

Provides that certain sections added by this legislation are expressly contingent on a determination by the commissioner that payment or wage and salary increases and associated benefits required by or associated with those sections are allowable uses of federal funds received by school district and open-enrollment charter schools under the American Recovery and Reinvestment Act of 2009 and appropriated as part of FSP.

Authorizes a school district or open-enrollment charter school to enter into an employment contract or agreement that is contingent on a determination of the commissioner.

Authorizes the commissioner to determine the applicable minimum salary schedule for use by school districts during the 2010-2011 state fiscal biennium following a determination by the commissioner.

Authorizes the commissioner to determine the percentage of entitlement in FSP or other program that represents the use of education stabilization funds received under the American Recovery and Reinvestment Act of 2009 during the 2009-2010 and 2010-2011 school years, and provides that a district or school may be required to apply to the commissioner to use those funds.

Prohibits the Teacher Retirement System of Texas, for purposes of interpreting and implementing Section 825.406, Government Code, from considering salaries of personnel paid in whole or in part from education stabilization funds distributed to school districts under the American Recovery and Reinvestment Act of 2009 as being paid from federal funds.

Requires the commissioner to provide school districts with the maximum flexibility permitted under federal law in the administration of education stabilization funds distribute under the American Recovery and Reinvestment Act of 2009.

Provides that, to the extent of any conflict, this Act prevails over S.B. 1969, 81st Legislature, Regular Session, 2009.

Repeals certain sections of the Education Code related to providing awards for the student achievement program; authorizing a campus incentive plan; establishing programs to offer electronic courses to students; providing certain costs to be borne by the state; entitling a school district or open-enrollment charter school to certain state and local funding for students enrolled in electronic courses; funding for accelerated students; retaining certain allocated funds by the commissioner; entitling open-enrollment charter schools to certain allotments; authorizing the commissioner to make certain fund adjustments; requiring the commissioner to take certain actions regarding a district's allotments; providing additional state aid for homestead exemption, professional staff salaries, and school employee benefits; providing state assistance for meeting minimum effort; providing certain computations under FSP; creating TxVSN; and providing requirements, funding, and accountability of open-enrollment charter schools.

Liquefied Petroleum Gas Systems in School Facilities—H.B. 3918

by Representative Darby—Senate Sponsor: Senator Ogden

Current statute mandates that all school facilities operating on liquefied petroleum (LP) gas be pressure tested in accordance with the National Fire Protection Association 54 every two years and the results sent to the Railroad Commission of Texas (railroad commission). This bill:

Requires each school district to perform leakage tests for leakage on the LP-gas piping system in each school district facility at least biennially.

Requires the school district to perform the leakage test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the railroad commission.

Requires a school district to retain documentation specifying the date and the result of each leakage test or other inspection of each LP-gas piping system until at least the fifth anniversary of the date the test or other inspection was performed.

Authorizes the railroad commission to review a school district's documentation of each leakage test or other inspection conducted by the school district.

Provides that the change in law made by this Act applies beginning with the 2009-2010 school year.

Texas Certification of Educators Certified in Another State or Country—H.B. 4152

by Representatives Rose and Martinez Fischer—Senate Sponsor: Senator Van de Putte

Texas currently faces a shortage of teachers in areas such as special education, mathematics, science, and bilingual education. As a result, many students are taught by out-of-field teachers, leading to lower student achievement in these areas. In addition, the rigid timetable for submitting paperwork and passing the Texas certification test is preventing some out-of-state teachers, who have recently moved to Texas, from being able to teach in a Texas classroom immediately. One way to alleviate the teacher shortage is to provide certified teachers from other states certification reciprocity to teach in Texas with a two-year temporary certification. This bill:

Authorizes the State Board for Educator Certification (SBEC) to issue a certificate to an educator who applies for a certificate and meets certain conditions.

Requires an educator who has submitted all documents required by SBEC for certification and who receives a certificate to perform satisfactorily on the examination prescribed under Section 21.048 (Certification Examinations), Education Code, not later than the first anniversary of the date SBEC completes the review of the educator's credentials and informs the educator of the examination or examinations under Section 21.048 on which the educator is required to perform successfully to receive a standard certificate.

Requires SBEC to post on SBEC's Internet website the procedures for obtaining a certificate.

Requires SBEC, in any state fiscal year, to accept or reject, not later than the 14th day after the date SBEC receives the completed application, at least 90 percent of the applications SBEC receives for a certificate, and to accept or reject all completed applications SBEC receives not later than the 30th day after the date SBEC receives the completed application.

Requires an applicant to submit a letter of good standing from the state in which the teacher is certified on a form determined by SBEC, information necessary to complete a national criminal history record information review, and an application fee as required by SBEC.

Electronic Textbooks, Instructional Materials, and Technological Equipment—H.B. 4294

by Representative Branch et al.—Senate Sponsor: Senator Shapiro et al.

There are many educational opportunities available to Texas students via electronic means. Electronic textbooks, educational software, and other technological programs can provide information to students in an efficient and engaging manner. In order to compete with students from other states, Texas needs to embrace the use of these electronic devices. This bill:

Requires each school district and open-enrollment charter school to annually certify to the State Board of Education (SBOE) and the commissioner of education (commissioner) that, for each subject in the foundation curriculum and each grade level, the district provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by SBOE for that subject and grade level.

Authorizes the state textbook fund to be used to purchase technological equipment necessary to support the use of electronic textbooks or instructional material included on the list adopted under Section 31.0231, Education Code, or any textbook or material approved by SBOE.

Requires the commissioner to adopt a list of electronic textbooks and instructional material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade five.

Requires an electronic textbook or instructional material placed on the list to:

- be reviewed and recommended to the commissioner by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology;
- to satisfy criteria adopted for the purpose by commissioner rule; and
- to meet the National Instrumental Materials Accessibility Standard, to the extent practicable as determined by the commissioner.

Requires that before the commissioner removes an electronic textbook or instructional material from the updated list, the removal be recommended by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology.

Requires the commissioner to adopt rules as necessary and consistent with Section 31.151 (Duties of Publishers and Manufacturers), Education Code, regarding the duties of publishers and manufactures, as appropriate, and the imposition of a reasonable administrative penalty, and require public notice of an opportunity for the submission of an electronic textbook or instructional material.

Requires that 50 percent of the total textbook credit of a school district or open-enrollment charter school be credited to the state textbook fund, and 50 percent of the credit be credited to the district or school to apply toward the

requisition of certain textbooks, including electronic textbooks or instructional materials on the list adopted under Section 31.0231, or technological equipment.

Provides that a school trustee, administrator, or teacher commits an offense if that person receives any commission or rebate on any textbooks, electronic textbooks, instructional materials, or technological equipment used in the schools with which the person is associated as a trustee, administrator, or teacher.

Provides that a school trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service under certain circumstances, including that might reasonably tend to influence a trustee, administrator, or teacher in the selection of a textbook, electronic textbook, instructional material, or technological equipment.

Requires the commissioner by rule to establish a computer lending pilot program to provide computers to participating public schools that make computers available for use students and their parents.

Provides that a public school is eligible to participate in the pilot program if 50 percent or more of the students enrolled in the school are educationally disadvantaged, and the school operates or agrees to operate a computer lending program that meets certain conditions.

School Leadership Pilot Program for Principals—H.B. 4435

by Representative Allen—Senate Sponsor: Senator Huffman

Current law requires participation in the school leadership pilot program for principals (program) by the principal of a campus rated academically unacceptable and any person hired to replace that principal. This requirement necessitates that the person hired to replace the original principal spend significant time away from the campus. This bill:

Requires a principal who was employed as a principal at a campus that was rated academically unacceptable during the preceding school year to participate in the program and complete the program requirements not later than a date determined by the commissioner of education.

Provides that Section 11.203(d), Education Code, applies only to a principal employed at a school that is rated academically unacceptable during the 2008-2009 school year.

Grant and Outreach Programs for Nutritional Education for Children—S.B. 282

by Senator Nelson—House Sponsor: Representative Eissler

Nutrition habits are developed early in life and should be instilled in children in various settings throughout the day and not just in school. Texas ranks sixth nationally in the rate of children who are obese or overweight. Seventy percent of overweight children will become overweight adults. Schools are asked to be the primary providers of nutrition education and nutritious foods and their efforts to establish effective programs to improve the health of students through innovative nutrition practices should be recognized and rewarded. This bill:

Authorizes the Texas Department of Agriculture (TDA) to develop an outreach program to promote better health and nutrition programs and prevent obesity among children in this state.

Requires TDA to develop a program under which TDA awards grants to participants in the Child and Adult Care Food Program, Head Start program, or other early childhood education programs to operate nutrition education programs for children who are at least three years of age but younger than five years of age, and community and faith-based initiatives that provide recreational, social, volunteer, leadership, mentoring, or developmental programs to incorporate nutrition education into programs provided for children younger than 19 years of age.

Provides that this Act does not make an appropriation.

Provides that a provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

Provides that it is the intent of the legislature that not more than \$4 million may be appropriated for the implementation of this Act for the state fiscal biennium beginning September 1, 2009.

Local School Health Advisory Councils and Human Sexuality Instruction—S.B. 283

by Senator Nelson et al.—House Sponsor: Representative Shelton

Currently, 42 percent of fourth graders in Texas are either obese, overweight, or at risk of becoming overweight, and 70 percent of overweight children will become overweight adults. School health advisory councils (SHACs) are district-level councils composed of parents, teachers, students, health professionals, and community leaders who are responsible for creating strategies to integrate health curriculum into a coordinated school health program that reflects local values. Although SHACs are currently required to create strategies to integrate health curriculum into coordinated school health programs, there are no criteria for organizational structure or mechanisms for accountability. A more structured set of guidelines will make SHACs more effective in developing and implementing coordinated school health plans. This bill:

Sets forth the required appointments, composition, and meetings of the SHAC.

Requires a school district, before each school year, to provide written notice to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students.

Requires that the notice include, if instruction will be provided, certain information.

Authorizes a parent to use the grievance procedure adopted under Section 26.011 (Complaints), Education Code, concerning a complaint of a violation.

Requires the SHAC, in addition to performing other duties, to submit to the board of trustees, at least annually, a written report that includes certain information regarding the council's recommendations, modifications, and activities.

Elimination and Modification of Certain Mandates on School Districts—S.B. 300

by Senator Dan Patrick—House Sponsor: Representative Shelton

Many independent school districts across Texas are reporting severe financial difficulties due to several factors, including the requirement to fulfill unfunded mandates. These mandates are particularly burdensome to fast-growth school districts. This bill:

Requires that the employment policy provide that not later than the 10th school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Section 21.003, Education Code, other than a position that affects the safety and security of students as determined by the board of trustees, the district is required to provide to each current district employee notice of the position by posting the position on a bulletin board at certain locations or the district's Internet website, if the district has a website, and a reasonable opportunity to apply for the position.

Authorizes the commissioner of education (commissioner), on application of a school district (district), to except the district from the limit if the commissioner finds the limit works an undue hardship on the district.

Provides that an exception expires at the end of the school year for which it is granted.

Authorizes the commissioner, if a district repeatedly fails to comply with this section, to take any appropriate action authorized to be taken by the commissioner under Section 39.131 (Sanctions for Districts), Education Code.

Requires the Texas Education Agency, not later than January 1, 2011, to report to the legislature the number of applications for exceptions submitted by each district and for each application indicate whether the application was granted or denied.

Provides that a school district, immediately before each field trip involving transportation by school bus, is encouraged to review school bus emergency evacuation procedures with the school bus passengers, including a demonstration of the school bus emergency exits and the safe manner to exit.

Requires the board of trustees of a district to establish a long-range energy plan to reduce the district's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan.

Repeals Section 44.901(b) (regarding the requirement that the board of trustees establish a goal to reduce electric consumption by five percent each year for six years), Education Code.

Provides that this Act applies beginning with the 2009-2010 school year.

Staff Development Requirements in Public Schools—S.B. 451

by Senator Van de Putte et al.—House Sponsor: Representative Dianne Patrick

According to the Texas Council on Autism and Pervasive Developmental Disorders, professionals, families, and advocates of students with disabilities understand that educating these students requires specialized training. However, the foremost concern of families of students with disabilities and professionals who work with them is the quality of teacher preparation. This bill:

Authorizes that staff development include training in technology, conflict resolution, and discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section 37.001 (Student Code of Conduct) and Chapter 37 (Discipline; Law and Order), Education Code.

Requires that staff development include training based on scientifically based research, as defined by Section 9101, No Child Left Behind Act of 2001 (20 U.S.C. Section 7801) that relates to instruction of students with disabilities and is designed for educators who work primarily outside the area of special education.

Provides that a school district is required to provide the training to an educator who works primarily outside the area of special education only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator.

Authorizes a district to determine the time and place at which training is delivered.

Requires a school district, in developing or maintaining the training to consult with persons with expertise in research-based practices for students with disabilities.

Provides that persons authorized to be consulted include colleges, universities, private and nonprofit organizations, regional education service centers, and any other persons identified as qualified by the district.

Authorizes that staff development include instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.

Provides that this Act applies beginning with the 2009-2010 school year.

Use of Personal Leave by Public School Employees—S.B. 522

by Senators Averitt and West—House Sponsor: Representative Eissler

Most school employees have more than one type of leave available to them as a result of the state minimum sick leave program that existed prior to September 1, 1995, the state minimum personal leave program that has existed since September 1, 1995, and leave granted in addition to the state minimum program in local district policy. Educators currently do not have statutory authority to choose which leave to take among the leave options available. Depending upon the employee's circumstances and plans, using one type of leave before using a different type of leave may be more advantageous. This bill:

Authorizes the board of trustees of a school district to adopt a policy governing an employee's use of personal leave granted, except that the policy is prohibited from restricting the order in which an employee is authorized to use the state minimum personal leave and any additional personal leave provided by the school district.

Provides that a public school employee who retains any sick leave accumulated under former Section 13.904(a), Education Code, as that section existed on January 1, 1995, is entitled to use the sick leave provided under that section or the personal leave provided in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

Provides that this Act applies beginning with the 2009-2010 school year.

Standards for Group-Administered Achievement Tests—S.B. 759

by Senator Williams—House Sponsor: Representative Eissler

School districts use locally adopted assessments to benchmark students' progress, to satisfy local educational initiatives, and to see how students are doing as compared with their peers nationally. The Texas Education Code imposes requirements that frustrate these comparisons and impose unreasonable costs. Section 39.032 (Assessment Instrument Standards; Civil Penalty), Education Code, prohibits school districts from using, and test publishers from offering, the same group-administered achievement test form for more than three years and requires state and national norms of averages to be computed using data not more than six years old. Currently, no other state has a similar requirement for such tests. This bill:

Requires that state and national norms of averages be computed using data that are not more than eight years old at the time the assessment instrument is administered and that are representative of the group of students to whom the assessment instrument is administered.

Requires that the standardization norms computed be based on a national probability sample that meets accepted standards for educational and psychological testing and be updated at least every eight years, using proven psychometric procedures approved by the State Board of Education.

Provides that the eight-year limitation on data to compute norms does not apply if only data older than eight years is available for an assessment instrument.

Authorizes the commissioner of education by rule to limit the exception based on the type of assessment instrument.

Repeals Sections 39.032(a) (relating to prohibiting a company or organization from distributing to, selling to, or grading for the same school district an assessment instrument for more than three school years), (b) (relating to requiring a company or organization that grades an assessment instrument to report the results to certain persons), and (d) (relating to a company or organization that fails to comply being liable to the state for certain actual damages), Education Code.

Public School Physical Education Curriculum—S.B. 891

by Senator Nelson et al.—House Sponsor: Representative Eissler

Texas has the sixth-highest percentage of obese and overweight children ages 10-17 in the country, and 40 percent of Texas children are overweight or obese, compared to the national average of 16 percent. Current statute requires that school curriculum include physical education but does not include a specific definition of physical education. This bill creates a consistent standard of physical education curriculum across the state and ensures that physical education curricula are sequential and built upon from one year to the next. This bill:

Requires that the physical education curriculum required under Section 28.002(a)(2)(C) (relating to the requirement that schools offering K-12 education have a physical education program), Education Code, be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life.

Requires each school district to establish specific objectives and goals the district intends to accomplish through the physical education curriculum.

Requires the State Board of Education, in identifying the essential knowledge and skills of physical education, to ensure that the curriculum satisfies certain criteria.

Requires a school district to require a student enrolled in full-day prekindergarten, in kindergarten, or in a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum or through structured activity during a school campus's daily recess.

Requires a school district, to the extent practicable, to require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten.

Requires the district, if a district establishes a student to teacher ratio greater than 45 to one in a physical education class, to specifically identify the manner in which the safety of the students will be maintained.

Public School Campus Coordinated Health Program—S.B. 892

by Senator Nelson—House Sponsor: Representative Shelton

Currently, all elementary and middle schools are required to have a coordinated school health program (program). Each school campus is also required to submit an annual campus improvement plan (plan) to the school board to assess academic programs and performance. However, there is no element to assess the implementation and effectiveness of the program. This bill is intended to increase accountability for student health by including a coordinated school health evaluation in each elementary and middle school's plan. This bill:

Requires that each campus improvement plan, if the campus is an elementary, middle, or junior high school, set goals and objectives for the coordinated health program at the campus based on student fitness assessment data, including any data from:

- research-based assessments such as the school health index assessment and planning tool created by the federal Centers for Disease Control and Prevention;
- student academic performance data;
- student attendance rates;
- the percentage of students who are educationally disadvantaged; the use and success of any method to ensure that students participate in moderate to vigorous physical activity as required by Section 28.002(l) (relating to requiring a school district to require a certain grade student to participate in a certain level of physical activity), Education Code; and
- any other indicator recommended by the local school health advisory council.

Provides that this Act applies beginning with the 2009-2010 school year.

Data Regarding Children in the Conservatorship of the State—S.B. 939

by Senator Watson—House Sponsor: Representative Hughes

The Texas Education Agency (TEA) collects data from all districts in Texas using the Public Education Information Management System (PEIMS). PEIMS encompasses all data requested and received by TEA about public education, including student demographic and academic performance, and personnel, financial, and organizational information. PEIMS collects information from Texas school districts using a list of data elements coded for unique attributes for students, but there is no code for foster children.

If TEA tracked foster children in PEIMS, it could provide aggregate data, including how many foster children are in special education and other services, the number of foster children within a school district, or the number of foster children subject to disciplinary action. TEA already codes children who fall within the definition of homeless or at-risk and are part of an educational program to ensure that they achieve academic success. Although TEA only takes a snapshot of Texas students during each year, which fails to fully track the transitory foster children population, PEIMS data is currently the best source of educational information for foster children. This bill:

Requires TEA and the Department of Family and Protective Services (DFPS) to enter into a memorandum of understanding regarding the exchange of information as appropriate to facilitate DFPS's evaluation of educational outcomes of students in foster care not later than January 1, 2010.

Authorizes DFPS to authorize TEA to provide education research centers established under Section 1.005 (Education Research Centers; Sharing Student Information), Education Code, with demographic information regarding individual students received by TEA as appropriate to allow the centers to perform additional analysis regarding educational outcomes of students in foster care.

Requires that any use of information regarding individual students provided to a center be approved by DFPS.

Provides that nothing in this section can be construed to require TEA or DFPS to collect or maintain additional information regarding students in foster care or allow the release of information regarding an individual student in a manner not permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or another state or federal law.

Requires TEA and the Texas Higher Education Coordinating Board to develop outreach programs to ensure that students in the conservatorship of DFPS and in grades 9-12 are aware of the availability of the exemption from the payment of tuition and fees.

Requires that a child's permanency plan, in accordance with DFPS rules, include concurrent permanency goals consisting of a primary permanency goal and at least one alternate permanency goal.

Authorizes certain goals for a DFPS child permanency plan.

Requires DFPS, if the goal of DFPS's permanency plan for a child is to find another planned, permanent living arrangement for the child, to document that there is a compelling reason why the other permanency goals identified are not in the child's best interest.

Requires the court, if DFPS has been named as a child's managing conservator in a final order that terminates a parent's parental rights, to conduct a placement review hearing not later than the 90th day after the date the court renders the final order.

Requires the court to conduct additional placement review hearings at least once every six months until the date the child is adopted or the child becomes an adult.

Requires that the placement review report identify DFPS's permanency goal for the child and contain certain information regarding the child's placement.

Driver Education Curriculum—S.B. 1107

by Senator Shapiro—House Sponsor: Representative Pickett

Drivers need to be aware of the danger of participating in distracting activities while driving, such as talking on a cell phone, before the state issues a driver's license. There are many other distractions in addition to cell phone usage that cause a person driving to be a danger to others on roadways. This bill:

Requires the commissioner of education by rule to require that information relating to the effect of using a wireless communication device or engaging in other actions that may distract a driver from the safe or effective operation of a motor vehicle be included in the curriculum of each driver education course or driving safety course.

Requires the commissioner of education, in developing rules under these provisions, to consult with the Department of Public Safety of the State of Texas and to adopt such rules as soon as practicable after September 1, 2009.

Parenting and Paternity Awareness in Public High School Health Curriculum—S.B. 1219

by Senators Averitt and West—House Sponsor: Representative Deshotel

The State Board of Education (SBOE) adopted the Office of the Attorney General's Parenting and Paternity Awareness (P.A.P.A.) curriculum after the passage of H.B. 2176 during the 80th Legislature, Regular Session, 2007. The P.A.P.A. curriculum adopted by SBOE contains the requirement for a health educator to teach 14 separate lesson plans that last approximately one hour each.

Because high school health classes are traditionally only one semester in length, rather than a full school year, implementing 14 lesson plans can be extremely difficult. This difficulty is increased for districts that participate in a block schedule school day. The current 14 lesson plan mandate makes it difficult for many high school health educators to spend adequate time on other extremely important topics during the semester. This bill:

Authorizes a teacher, at the discretion of the district, to modify the suggested sequence and pace of the parenting and paternity awareness program.

Provides that this Act applies beginning with the 2009-2010 school year.

Mentors for Teachers Teaching New Subjects or Grade Levels—S.B. 1290

by Senators Van de Putte and West—House Sponsor: Representative Farias

In 1996, the State Board for Educator Certification required that beginning teachers in Texas be assigned a mentor and implemented a pilot mentoring program, the Texas Beginning Educator Support System (TxBESS). Evaluations of TxBESS have shown a significant increase in the retention rates of participating teachers.

As demand rises for existing teachers to move into new fields, with or without full certification, the state must find cost-effective ways to provide those teachers with the necessary support to help them and their students succeed. School districts should be encouraged to offer mentoring opportunities for teachers who are not necessarily new to the profession, but are new to a particular subject or grade level. This bill:

Authorizes each school district to assign a mentor teacher to each classroom teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned.

Requires a teacher assigned as a mentor, to the extent practicable, to teach in the same school.

Alcohol Awareness in Public School Health Curriculum—S.B. 1344

by Senator Watson et al.—House Sponsor: Representative Eissler

Since 2007, there have been several accidental deaths on college campuses due to alcohol poisoning. Generally, those who die from alcohol poisoning are freshmen or new fraternity pledges who have little to no experience with alcohol and have little understanding of its effects and dangers. While most colleges and universities have some kind of educational program relating to alcohol poisoning and binge drinking (either online courses, handouts to freshmen, or presentations during freshmen orientation), there is a clear lack of education in middle and high school curriculum when students are first exposed to and forming their perception of alcohol culture. This bill:

Requires that this Act be known as the Carson Starkey Alcohol Awareness and Education Act.

Requires the State Board of Education, in adopting the essential knowledge and skills for the health curriculum under Section 28.002(a)(2)(B) (relating to a required enrichment curriculum that includes health, with an emphasis on the importance of proper nutrition and exercise), Education Code, to adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning.

Requires the Texas Education Agency to compile a list of evidence-based alcohol awareness programs from which a school district is required to choose a program to use in the district's middle school, junior high school, and high school health curriculum.

Provides that this Act applies beginning with the 2009-2010 school year.

Adoption of School District Grading Policy—S.B. 2033

by Senators Nelson and Dan Patrick—House Sponsor: Representative Eissler

Recently there have been instances in school districts where teachers have reported that local district officials have required them to assign minimum passing grades regardless of student performance on assignments in order to reduce student course failures and their impact on district drop-out rates. This bill:

Requires a school district to adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations, before each school year.

Provides that a district grading policy must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment, may not require a classroom teacher to assign a minimum grade for an assignment without regard to the student's quality of work, and may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

Provides that this Act applies beginning with the 2009-2010 school year.

Establishment of a Computer Lending Pilot Program—S.B. 2178

by Senator Shapleigh—House Sponsor: Representative Hochberg

A study of students around the world by the Organization for Economic Co-Operation and Development has shown that regular computer users actually perform better in important subjects in school. The study especially notes the disparity in mathematics grades—students who have been using a computer for several years test well, while students who have had little computer experience tend to lag behind their class year. This bill:

Requires the commissioner of education (commissioner) by rule to establish a computer lending pilot program to provide computers to participating public schools that make computers available for use by students and their parents.

Requires the commissioner to establish procedures for the administration of the pilot program, including procedures for distributing to participating public schools any surplus or salvage data processing equipment available for distribution under the pilot program, or computers donated or purchased for that purpose with funds from any available source, including a foundation, private equity, governmental entity, and institution of higher education.

Provides that a public school is eligible to participate in the pilot program if 50 percent or more of the students enrolled in the school are educationally disadvantaged, and the school operates or agrees to operate a computer lending program that satisfies certain criteria.

Requires the commissioner, not later than January 1 of each year, to submit a report to the legislature regarding the computer lending pilot program.

Requires a state agency to make the equipment available to the commissioner for use in the computer lending pilot program.

Prohibits the state agency from collecting a fee or other reimbursement from the commissioner for the available equipment.

Public School Students Placed in Substitute Care—S.B. 2248

by Senator Zaffirini—House Sponsor: Representative Dianne Patrick

Currently, school districts are given little to no direction and authority from the Texas Education Agency (TEA) regarding the schooling experiences of children in substitute care. Although previous legislation has been enacted relating to the school transitions of children of active duty military personnel, there is no legislation guiding TEA on how to ease the many burdens confronting children in substitute care during their multiple transitions between schools and school districts. This bill:

Requires TEA, in recognition of the challenges faced by students in substitute care, to assist the transition of substitute care students from one school to another by:

- ensuring that school records for a student in substitute care are transferred to the student's new school not later than the 14th day after the date the student begins enrollment at the school;
- developing systems to ease transition of a student in substitute care during the first two weeks of enrollment at a new school;
- developing procedures for awarding credit for course work, including electives, completed by a student in substitute care while enrolled at another school;
- promoting practices that facilitate access by a student in substitute care to extracurricular programs, summer programs, credit transfer services, electronic courses provided under Chapter 30A (State Virtual School Network), and after-school tutoring programs at nominal or no cost;
- establishing procedures to lessen the adverse impact of the movement of a student in substitute care to a new school;
- entering into a memorandum of understanding with the Department of Family and Protective Services regarding the exchange of information as appropriate to facilitate the transition of students in substitute care from one school to another;
- encouraging school districts and open-enrollment charter schools to provide services for a student in substitute care in transition when applying for admission to postsecondary study and when seeking sources of funding for postsecondary study;
- requiring school districts, campuses, and open-enrollment charter schools to accept a referral for special education services made for a student in substitute care by a school previously attended by the student; and
- providing other assistance as identified by TEA.

Provides that a student is eligible to enroll full-time in courses provided through the state virtual school network only if the student has been placed in substitute care in this state, regardless of whether the student was enrolled in a public school in this state in the preceding school year.

Provides that this Act applies beginning with the 2009-2010 school year.

Intensive Summer and College Readiness Programs—S.B. 2258

by Senator Zaffirini—House Sponsor: Representative Hochberg

Legislation is needed to solidify the role of the Texas Higher Education Coordinating Board (THECB) as administrator of intensive summer programs (ISPs) for college students. ISPs are collaborations among school districts and institutions of higher education, and are created to provide intensive academic instruction to promote college and workforce readiness for middle school, high school, and college students identified as being at risk of dropping out of school. The statutory authority to carry out ISPs currently resides in Title 2 of the Education Code, which relates to public education. This bill:

Requires the commissioner of education to establish a pilot program to award grants to participating campuses to provide intensive academic instruction during the period in which school is recessed for the summer to promote college and workforce readiness to students identified as being at risk of dropping out of school, as defined by Section 29.081 (Compensatory, Intensive, and Accelerated Instruction), Education Code.

Authorizes a grant awarded to be used to fund certain categories of programs.

Modifies language relating to program eligibility.

Provides that for purposes of Section 29.098(d)(2) (relating to a grant awarded be matched by not less than \$250 for each participating student in other federal, state, or local funds, including private donations), Education Code, a school district is encouraged to use funds allocated under Section 42.2516(b)(3) (relating to certain state revenue to which a school district is entitled), Education Code.

Authorizes SBOE to adopt any additional instructional materials as necessary for a program.

Requires SBOE to include information technology instructional resources that incorporate established best practices for instruction among approved instructional materials for intensive summer programs to enhance the effectiveness of the programs.

Requires THECB by rule to implement the college readiness and success strategic action plan adopted under Section 61.0761 (P-16 College Readiness and Success Strategic Action Plan), Education Code, and to enhance the success of students at institutions of higher education to develop certain programs.

Requires THECB, from funds appropriated, to allocate \$8.75 million each year to establish mathematics, science, and technology teacher preparation academies under Section 21.462 (Mathematics, Science, and Technology Teacher Preparation Academies), Education Code, provide funding to the commissioner of education to implement and administer the program under Section 29.098, and award grants under Section 61.0762(a)(3), Education Code, and implement and administer the program under Section 29.098.

Small Employer Definition for Employer-Based Daycare Facilities—H.B. 415

by Representative Villarreal et al.—Senate Sponsor: Senator Uresti

H.B. 1385, passed by the 80th Legislature, Regular Session, 2007, authorized small Texas businesses with fewer than 50 employees to establish and regulate on-site day care centers that care for no more than 12 of their employees' children. Rather than obtaining a license from the Texas Department of Family and Protective Services (DFPS) that would require facilities to receive ongoing inspections, small businesses can obtain a permit that requires facilities to be subject to DFPS oversight, have a maximum ratio of four children to one caregiver, and be located in the same building as the parents' places of work. Allowing small businesses to obtain a permit to operate on-site day care facilities has allowed such businesses to provide safe child care and afford parents with immediate access to their children. This bill:

Redefines "small employer" to allow small businesses with fewer than 100 full-time employees to establish and regulate on-site day centers with fewer than 12 of their employees' children.

Information Required to be Provided to Parents of an Infant—H.B. 1240

by Representative Villarreal et al.—Senate Sponsor: Senator Uresti

New parents must be educated about the development of their children, especially during infancy and early childhood. Hospitals and birthing centers are currently required to provide new parents with information regarding shaken baby syndrome, post-partum depression, and immunizations. Parents and children would benefit if provided with information about other subjects, including establishing a "medical home" for the child, dental care, effective parenting, and child safety. This bill:

Requires a hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant to provide the woman and the father of the infant a resource guide that includes information in both English and Spanish relating to the development, health, and safety of a child from birth until age five, if the woman is a recipient of Medicaid assistance.

Provides that certain information must be included in the resource guide.

Requires the Health and Human Services Commission to develop performance measures to evaluate the effectiveness of the resource guide in reducing costs to the state and improving outcomes for children and to submit a report to the legislature on the effectiveness of the guide.

Use of a Tanning Device by a Minor—H.B. 1310

by Representative Solomons et al.—Senate Sponsor: Senator Nelson

Recent research published by the International Agency for Research on Cancer suggests that using a tanning device before the age of 30 increases the risk of skin cancer by 75 percent. Current Texas law allows minors under 15 years of age to use a tanning device if they are accompanied by a parent or guardian and allows minors between 16 and 17 years of age to use a tanning device if they sign an informed consent statement. Use of a tanning device is prohibited for minors under 13 years of age unless they have a physician's permission. This bill:

Prohibits a tanning facility from allowing a minor younger than 16 1/2 years old to use a tanning device and a minor younger than 18 years of age to use a tanning device unless the minor's parent or legal guardian, in person at the facility, consents in writing for the minor to use the device, which may be revoked at any time.

Requires minors under age 18, before using the tanning device, to give the operator a written informed consent statement signed and dated by the minor and the minor's parent or legal guardian stating that both have read and understood the advisory statement issued by the Texas Medical Board.

Requires the minor and parent or legal guardian to agree that the minor will use protective eyewear at all times while using the tanning device.

Patient Age for Influenza Vaccination Administration by Pharmacists—H.B. 1409

by Representative Hopson—Senate Sponsor: Senator Nichols

As a result of S.B. 786, 75th Legislature, Regular Session, 1997, which authorized pharmacists to administer immunizations and vaccinations when ordered by a physician, and other state efforts, the immunization rate in Texas has increased from 65 percent in 2002 to 77.3 percent in 2007. Currently, state law allows pharmacists to administer immunizations to children between the ages of 14 and 17; however, children over the age of seven are required to visit their physicians to obtain permission to receive an influenza vaccination from a pharmacist. This bill:

Authorizes a pharmacist to administer an influenza vaccination to a patient over seven years of age without an established physician-patient relationship.

Information on Sudden Infant Death Syndrome for Parents of Newborns—H.B. 1510

by Representative Bonnen et al.—Senate Sponsor: Senator Mike Jackson

Sudden Infant Death Syndrome (SIDS) occurs when a baby age one month to one year dies unexpectedly during sleep. The cause of SIDS is unknown. Although many SIDS victims meet none of the known risk factors, mothers who consumed alcohol or tobacco in pregnancy and a lack of prenatal care may increase its occurrence. Section 161.501 (Resource Pamphlet), Health and Safety Code, requires that a resource pamphlet published by the Department of State Health Services (DSHS), "Information for Parents of Newborns," be provided to parents of newborn children. Research has shown a direct connection between a decline in SIDS deaths and increased parental awareness. This bill:

Requires a hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant, after March 1, 2010, to provide the woman and the father of the infant, or another adult caregiver for the infant, with a resource pamphlet that includes information about SIDS, including current recommendations for infant sleeping conditions.

Services for Persons With an Autism Spectrum Disorder—H.B. 1574

by Representative Thompson et al.—Senate Sponsor: Senator Gallegos

Autism is one of five disorders under the category of pervasive developmental disorders (PDD)—the disorders include Autistic Disorder, Asperger's Disorder, Childhood Disintegrative Disorder, Rett's Disorder, and PDD-Not Otherwise Specified. Though each of the five PDD varies in severity, each person with an autism spectrum disorder experiences complex, developmental disabilities that typically appear during the first three years of life. Many children with an autism spectrum disorder are not diagnosed until later in life when treatment is less effective. Those who do not receive early treatment will likely require expensive therapies throughout their lives and significant and tiresome investment from family members. This bill:

Requires the Health and Human Services Commission (HHSC), in coordination with the Texas Council on Autism and Pervasive Developmental Disorders, to establish and administer an autism spectrum disorders resource center (center) to coordinate resources for individuals with autism and other PDD and their families.

Requires HHSC to design the center to collect and distribute information and research regarding autism and other PDD; conduct training and development activities for persons who may interact with an individual with an autism spectrum disorder in the course of their employment; coordinate with local autism-related service providers; and provide support for families affected by an autism spectrum disorder.

Requires the executive commissioner of HHSC (executive commissioner) to conduct a study, to be submitted not later than September 1, 2010, to determine the costs and benefits of initiating a pilot program to provide services, including case management, vocational assessment, training, and support to increase job skills and competitive employment opportunities, to adult persons with autism and other related disabilities with similar support needs.

Requires the report to address certain issues facing adults with an autism spectrum disorder, including options for independent living; community-based housing; best practices and programs from other states that may serve as pilot program models; and barriers that may prevent adults with an autism spectrum disorder from living in their local community including housing needs and living arrangements.

Grant Program to Provide Children With Nutritious Foods—H.B. 1622

by Representative Giddings et al.—Senate Sponsor: Senator Zaffirini

Although programs that provide nutritious foods to children in schools, such as the National School Lunch Program, the School Breakfast Program, and the Summer School Program, are in operation, Texas does not currently operate any programs that provide nutritious foods to younger children outside of schools settings. Children who are not yet enrolled in school may not have access to healthy foods that are essential for proper development. This bill:

Requires the Texas Department of Agriculture (TDA) to develop and implement a children's access to nutritious food program to award grants to nonprofit organizations for the purposes of allowing food banks to provide children at risk of hunger or obesity with access to certain nutritious food outside the school day.

Provides that a nonprofit organization is eligible to receive a grant if the organization has at least five years of experience coordinating a statewide network of food banks and charitable organizations that serves each county of this state; operates a program through a statewide network of food banks that provides children at risk of hunger or obesity with access to nutritious food outside the school day; and submits to TDA a detailed proposal for a program.

Requires a nonprofit organization that receives a grant to report the results of the program to TDA.

Authorizes the commissioner of agriculture to adopt rules as necessary to implement this program.

Newborn Screening—H.B. 1672

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

Every infant born in the state of Texas is required to receive newborn screening to test for 27 genetic disorders. Since 2002, the Department of State Health Services (DSHS) has de-identified and retained the screening samples, which can be used in a limited way for DSHS-approved research projects. However, the de-identified data cannot be shared or used to facilitate medical research and improve the screening program. This bill:

Requires DSHS to include sickle-cell trait in the detection and treatment program, the screening for heritable diseases, and the newborn screening services.

Requires DSHS to develop a disclosure statement that clearly discloses to the parent of a newborn child subjected to screening tests that DSHS or a laboratory established or approved by DSHS is authorized to retain for use by DSHS or laboratory genetic material used to conduct the newborn screening tests and discloses how the material is managed and used and that the parent is authorized to limit the use of genetic material by providing to DSHS a written statement prohibiting the retainment or use of the genetic material for any purpose other than the conduct of newborn screening tests.

Requires that the disclosure statement be included on the form developed by DSHS to inform parents about newborn screening.

Requires DSHS or the laboratory, not later than the 60th day after DSHS receives the written statement, to destroy the genetic material used in the screening tests.

Provides that reports, records, and information obtained or developed by DSHS are confidential.

Authorizes reports, records, and information obtained or developed by DSHS to be disclosed for purposes of diagnosis or follow-up with the consent of each identified individual as authorized by court order to a medical examiner authorized to conduct an autopsy on a child or an inquest on the death of a child or to public health programs of DSHS for public health research purposes.

Authorizes reports, records, and information that do not identify a child or the family of a child to be released without consent if the disclosure is for statistical purposes; purposes related to obtaining or maintaining certification, approval, or quality assurance for a laboratory to perform newborn screening tests; purposes relating to review, quality assurance, or improvement of DSHS's newborn screening; research purposes; or quality assurance related to equipment and supplies.

Requires a committee of members selected by the speaker to conduct an interim study on newborn screening in this state.

Early Childhood Health and Nutrition Interagency Council—S.B. 395

by Senator Lucio—House Sponsor: Representative Lucio III

The state of Texas has implemented several programs to attempt to curb obesity in school-age children. However, no statewide plan to address the problem of obesity in young children ages two to five exists. Research indicates that children entering kindergarten are increasingly overweight and that lifelong eating and exercise habits are developed during a child's first few years of life. This bill:

Requires the Texas Department of Agriculture (TDA) to establish the Early Childhood Health and Nutrition Interagency Council (council) and requires the representative appointed by the commissioner of agriculture as a representative of TDA to serve as the presiding officer of the council.

Requires the council to meet in person three times each year, invite stakeholders to participate in at least two council meetings each year, and provide an opportunity for submission of oral or written testimony.

Requires the council to review current research to assess the health of children under the age of six in this state compared to the health of similar children in other states, the significance of nutrition and physical activity in the

development of children under the age of six, and the existence of nutrition and physical activity requirements and practices in early childhood care settings.

Requires the council to review the status of the programs administered by each agency represented on the council that promote healthy nutrition and physical activity in early childhood care settings and to identify existing state and federal funding sources available for the promotion of health and nutrition in early childhood care settings.

Requires the council to develop an early childhood nutrition and physical activity plan with a recommended timeline for implementation over a six-year period.

Requires the council to submit a written early childhood nutrition and physical activity plan and report to the legislature and the governor.

Authorizes the commissioner of agriculture to adopt rules necessary to implement the bill.

Provides that the council is subject to the Texas Sunset Act.

Provision of Information to Assist Children With Velocardiofacial Syndrome—S.B. 1612

by Senators Lucio and Zaffirini—House Sponsor: Representative Rodriguez

Velocardiofacial Syndrome (VCFS) is caused by the partial deletion of chromosome 22, and its symptoms can include cleft palate, congenital heart disease, feeding difficulties, certain facial distinctions, vision problems, psychiatric problems, and weakened immune systems. Approximately one in 2,000 children are born with VCFS, and it is the second most common genetic syndrome after Down syndrome. Persons with VCFS respond well to therapy; however, the syndrome is largely undiagnosed. This bill:

Requires the Health and Human Services Commission (HHSC) to ensure that each health and human services agency that provides intervention services to young children is provided with information developed by HHSC regarding VCFS.

Requires each health and human services agency to provide the information regarding VCFS to appropriate health care coordinators and therapists and to parents of a child who is known to have at least two of the following conditions: hypotonicity; communication delay; articulation disorder; resonance disorder; nasal regurgitation during feeding as an infant with no history of a cleft palate; recurrent ear infections as well as diagnosis of cardiac anomaly, feeding disorder, cleft palate, or submucosal cleft palate; or fine motor or gross motor skills delay.

Requires that the information include an explanation of VCFS symptoms, diagnosis, and treatment options; information on relevant state agency and nonprofit resources, parent support groups, and available Medicaid waiver programs; and a recommendation for follow-up with a health care provider for evaluation.

Authorizes the executive commissioner of HHSC to adopt rules to implement this bill.

Interagency Task Force for Children With Special Needs—S.B. 1824

by Senator Lucio—House Sponsor: Representative Lucio III

There are many programs in Texas that provide various services to children with special needs. However, these programs are not coordinated and do not involve high-level decision makers in the development process. Better coordination and efficiency of such programs will enable families to navigate the system, maximize funds, and increase accountability. This bill:

Requires the governor to oversee the Interagency Task Force for Children with Special Needs (task force) created and administered by the Health and Human Services Commission (HHSC) to improve the coordination, quality, and efficiency of services for children with special needs.

Requires the task force to coordinate with federal agencies; compile a list of opportunities to increase flexible funding for services; conduct a review of state agency policies and procedures related to service delivery; perform a needs assessment; and develop a five-year plan to improve the coordination, quality, and efficiency of services.

Requires the task force to submit a biennial report on the progress of each agency represented on the task force in accomplishing the goals to the governor, lieutenant governor, and speaker of the house of representatives.

Requires the task force to meet at least once each quarter and provide an opportunity for statewide public participation in at least two meetings in each year.

Requires the interagency coordinator, assisted by the task force director, to establish subcommittees to address early childhood detection and intervention; education; health care; transitioning youth; crisis prevention and intervention; juvenile justice; long-term, community-based services and supports; and mental health.

Requires the task force director hired by the interagency coordinator to prepare the required plan and reports, work with each task force representative to schedule meetings and deadlines relevant to the representative's agency, and work with the interagency coordinator to assign subcommittee leadership positions.

Provides that the task force is subject to the Texas Sunset Act.

Provides that the task force is abolished on September 1, 2015, unless continued in existence as provided by Texas Sunset Act.

Expanded Faith-Based and Community-Based Health and Social Services—H.B. 492

by Representatives Zerwas and Kolkhorst—Senate Sponsor: Senator Deuell

Faith-based and community-based organizations play a very important role in assisting the health and human services needs of Texans. Both the state and federal government have enacted legislation to increase the effectiveness of such organizations to better assist people in need. Supporting existing faith-based and community-based organizations helps the state to save money on rising health care costs. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) (executive commissioner) to designate one employee from HHSC and from each health and human services agency to serve as a liaison for faith-based and community-based organizations.

Requires a faith-based and community-based liaison to, among other things, identify and remove unnecessary barriers to partnerships between the state agency the liaison represents and faith-based and community-based organizations; provide information and training for employees of the state agency the liaison represents regarding equal opportunity standards for faith-based and community-based organizations seeking to partner with state government; and facilitate the identification of practices with demonstrated effectiveness for faith-based and community-based organizations that partner with the state agency the liaison represents.

Provides that the interagency coordinating group for faith-based and community-based initiatives is composed of each faith-based and community-based liaison and a liaison from the State Commission on National and Community Service.

Sets forth the requirements of the interagency coordinating group.

Requires a liaison to provide periodic reports to the executive commissioner, the governor's office of faith-based and community-based initiatives, and the State Commission on National and Community Service regarding the liaison's efforts to comply with its duties.

Provides that the renewing our communities account is an account in the general revenue fund that may be appropriated only to HHSC for the purposes and activities authorized by this bill and for reasonable administrative expenses.

Sets forth the powers and duties of HHSC and the State Commission on National and Community Service with regard to the account.

Sets forth requirements relating to the administration of account funds.

Requires the executive commissioner to establish a task force to make recommendations for strengthening the capacity of faith-based and community-based organizations for managing human resources and funds and providing services.

Requires the task force to present a report and legislative recommendations to the House Committee on Human Services, the House Committee on Public Health, and the Senate Health and Human Services Committee.

Requires the executive commissioner to appoint leaders of faith-based and community-based organizations in this state to serve on the renewing our communities account advisory committee.

Requires the advisory committee to make recommendations to the executive commissioner regarding the powers and duties with respect to the account.

Legislative Committee on Aging—H.B. 610

by Representative Naishtat et al.—Senate Sponsor: Senator Van de Putte

The number of Texans age 65 and older is expected to triple from the year 2020 to 2040, from 2.1 million to 6.3 million. According to the Texas State Data Center, services and conditions affecting the elderly population need to be addressed to prepare for the expected increase in demand for services. Currently, no committee on aging exists to study issues relating to the state's aging population. This bill:

Creates the Legislative Committee on Aging at the Department of Aging and Disability Services to study issues relating to the aging population of Texas, including issues related to the health care, income, transportation, housing, education, and employment needs of that population and make recommendations to address those issues.

Creates the Chris Kyker Endowment for Seniors Fund as a special fund outside the state treasury.

Continuing Education Relating to Medicare-Related Products—H.B. 739

by Representative Quintanilla—Senate Sponsor: Senator Ellis

Current law requires certain insurance agents to complete 15 hours of continuing education annually but does not specifically address agents who market or sell Medicare-related products. This bill:

Prohibits agents from selling, soliciting, or negotiating a contract for Medicare-related products unless the agent has completed eight hours of professional training related to a Medicare-related product in this state.

Sharing Suicide Data Between Authorized Entities—H.B. 1067

by Representative Naishtat—Senate Sponsor: Senator Nelson

Currently, aggregate data on suicide deaths that occur in clusters is not immediately available to researchers. Researchers must analyze data that is several years old and ineffective in suicide prevention efforts. This bill:

Authorizes an authorized entity to enter into a memorandum of understanding with another authorized entity to share suicide data that does not name a deceased individual.

Authorizes the authorized entity to periodically release suicide data that does not name a deceased individual to an agency or organization with recognized expertise in suicide prevention to be used only for suicide prevention purposes.

Health Information Exchanges Pilot Project—H.B. 1218

by Representative Donna Howard—Senate Sponsor: Senators Watson and Uresti

Many communities are implementing health information exchanges (HIEs) that allow them to capture and evaluate public health care information from providers in accordance with HIPPA and other federal and state privacy laws. The evaluation of data allows those participating in HIEs to determine the quality and timeliness of health care delivery, which will ultimately help reduce the costs of health care. This bill:

Requires the Health and Human Services Commission (HHSC) to establish a pilot project in at least one urban area of Texas to determine the feasibility, costs, and benefits of exchanging secure electronic health information between HHSC and at least two local or regional HIEs.

Requires a local or regional HIE selected for the pilot project under this section to possess a functioning HIE database that exchanges secure information among hospitals, clinics, physicians' offices, and other health care providers that are not each owned by a single entity or included in a single operational unit or network.

Requires that the information exchanged by the local or regional HIE include health information for patients receiving services from state and federal health and human services programs administered by HHSC.

Requires HHSC to assess the benefits to the state, patients, and health care providers of exchanging secure health information with local or regional HIEs and report the findings to the standing health and human services committees of the senate and house of representatives.

Cancer Prevention and Research Institute of Texas—H.B. 1358

by Representative Keffer et al.—Senate Sponsor: Senators Nelson and Zaffirini

The Cancer Prevention and Research Institute of Texas (CPRIT) was established in November 2007, when Texas voters approved Proposition 15. The purpose of CPRIT is to support innovation in the area of cancer research and in enhancing the potential for a medical or scientific breakthrough in the prevention of cancer and cures for cancer. CPRIT provides grants to persons and institutions that carry out cancer research. Following the creation of CPRIT, several areas of potential improvement have been identified. This bill:

Authorizes CPRIT to supplement the salary, with funding from gifts, grants, donations, or appropriations, of the executive director and other senior institute staff members.

Provides that oversight committee members appointed by the governor, lieutenant governor, and speaker of the house serve staggered six-year terms, instead of four-year terms, with the terms of three members expiring on January 31 of each odd-numbered year.

Authorizes the oversight committee to adopt rules governing CPRIT and its duties.

Requires the executive director, with approval by a simple majority of the members of the oversight committee, to appoint as members of scientific research and prevention programs committees experts in the field of cancer research and prevention, to serve for terms as determined by the executive director, rather than four-year terms.

Authorizes a member of a scientific research and prevention programs committee to receive an honorarium.

Requires the CPRIT University Advisory Committee, which is composed of a certain number of members from various institutions, to advise the oversight committee and a research and prevention programs committee regarding the role of institutions of higher education in cancer research.

Requires the oversight committee to create an ad hoc committee of experts, who will serve for a period determined by the oversight committee, to address childhood cancers.

Authorizes the oversight committee to create additional ad hoc committees of experts to advise the oversight committee on issues relating to cancer.

Requires a member of a research and prevention programs committee, the university advisory committee, or any ad hoc committee to disclose in writing to the executive director if the member has an interest in a matter that comes before the member's committee or has a substantial financial interest in an entity that has a direct interest in the matter and to recuse himself or herself from the committee's deliberations and actions on the matter.

Requires expenditures of money awarded for facility purchase, construction, remodel, or renovation projects to benefit cancer prevention and research.

Requires the oversight committee to issue rules that require certain procedures regarding the procedure for awarding grants to an applicant.

Requires the oversight committee to follow the funding recommendations of the 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.

Requires the oversight committee to require that the grant recipient submit to regular inspection reviews of the grant project by institute staff to ensure compliance with the terms of the award and to ensure the scientific merit of the research.

Requires the executive director to determine the grant review process and report at least annually to the oversight committee on the progress and continued merit of each research program funded by the institute.

Authorizes the executive director to terminate grants that do not meet contractual obligations.

Provides that certain information related to grant applicants is subject to public disclosure.

Program for Reporting Methicillin-Resistant Staphylococcus Aureus Infections—H.B. 1362

by Representative Gutierrez—Senate Sponsor: Senator Van de Putte

Methicillin-resistant Staphylococcus Aureus (MRSA) is a type of staph bacteria that is resistant to certain antibiotics. Existent in health care and community settings, MRSA can cause infections that can lead to pneumonia, bloodstream infections, and sometimes death. The 80th Legislature enacted H.B. 1082, creating an electronic MRSA registry pilot program to track the prevalence of MRSA infections in certain Texas counties. The pilot program was scheduled to expire on September 1, 2009. This bill:

Extends the electronic MRSA registry pilot program to research and implement procedures for reporting MRSA infection to September 1, 2011.

Prohibits a health authority from being required to participate in the pilot program.

Requires a health authority that participates in the pilot program to administer the program locally and report to the Department of State Health Services (DSHS).

Requires that the pilot program require all clinical laboratories, including hospital laboratories and clinical reference laboratories, within the area served by each health authority participating in the pilot program to report all positive cases of MRSA infection, including infections contracted in a community setting, a health care facility, and any other setting, to the applicable health authority using automated and secure electronic data transmission.

Requires that the pilot program track the prevalence of MRSA infections; evaluate the cost and feasibility of expanding the list of reportable diseases to include MRSA infections; develop a methodology for the electronic transfer of information regarding MRSA infections within the area served by each health authority participating in the pilot program; collect data and analyze findings regarding the prevalence of MRSA infections; provide for the reporting to the public by the department of information regarding MRSA infections; compile and make available to the public a summary report; and make recommendations to DSHS.

Requires DSHS, in consultation with each health authority participating in the pilot program, to submit to the legislature a report concerning the effectiveness of the pilot program.

Provides that a health care facility located in an area served by a health authority participating in the pilot program is not required to report an incident of MRSA to DSHS.

Requires the health authority to report each incident to DSHS.

Extending the Diabetes Mellitus Registry Pilot Program—H.B. 1363

by Representatives Gutierrez and Castro—Senate Sponsor: Senator Van de Putte

The prevalence of diabetes in Texas is a major problem. In 2007, 1.8 million adult Texans had diabetes and approximately 460,040 adults had undiagnosed diabetes. Diabetes is the sixth leading cause of death in Texas; among Texas Hispanics and African Americans, it is the fourth leading cause of death. In 2007, the 80th Legislature enacted H.B. 2132, creating an electronic diabetes mellitus registry pilot program in San Antonio, Texas, to track the prevalence of diabetes, the level of control individual patients are exerting over their diabetes, and the trends of new diagnoses of diabetes. The pilot program expires September 1, 2010. This bill:

Extends the electronic diabetes mellitus registry pilot program.

Requires the Department of State Health Services (DSHS) and the public health district to create an electronic registry to track the glycosylated hemoglobin level and the diagnosis codes of each person who has a laboratory test to determine that level performed at a clinical laboratory in the district.

Requires a physician practicing in the participating public health district who, on or after November 1, 2009, orders a glycosylated hemoglobin test for a patient to submit to the clinical laboratory the diagnosis codes of a patient along with the patient's sample.

Requires a physician who orders a glycosylated hemoglobin test for a patient to provide the patient with a form developed by DSHS that allows the patient to opt out of having the patient's information included in the registry.

Requires DSHS and the participating public health district to compile results in order to track certain information, including the health care costs associated with diabetes mellitus and glycosylated hemoglobin testing.

Requires the executive commissioner of the Health and Human Services Commission to adopt rules to govern the format and method of collecting glycosylated hemoglobin data and patient diagnosis codes.

Decision-Making Advocate Pilot Program for Intellectually Disabled Persons—H.B. 1454

by Representative Naishtat et al.—Senate Sponsor: Senators Zaffirini and Uresti

Current Texas law allows persons with intellectual and other cognitive disabilities to receive guardianship or surrogate decision-making assistance when making important life-altering decisions. However, many intellectually disabled persons in community settings do not have guardians or family members who can help them make decisions. Alternatively, supported decision-making offers persons with intellectual and other cognitive disabilities the option of receiving information to help them choose certain options such as where to live, who to live with, and where to work, while retaining their civil rights. This bill:

Requires the Health and Human Services Commission (HHSC) to create a pilot program to promote the provision of supported decision-making services to persons with intellectual and other cognitive disabilities and persons with other cognitive disabilities who live in the community.

Requires HHSC to select at least one rural community and at least one urban community in which to implement the program and contract with one or more entities to administer the pilot program and to recruit and train volunteer advocates to provide supported decision-making services.

Requires HHSC to convene a work group, consisting of family members of persons with intellectual and other cognitive disabilities and members of advocacy organizations, to develop the rules and structure of the pilot program.

Requires HHSC to award a contract to an entity or collaboration of entities that demonstrates a certain commitment and the ability to provide supported decision-making services to assist persons with intellectual and other cognitive disabilities in understanding their personal options, support options, opportunities, and responsibilities to help the persons remain as independent as possible.

Requires HHSC, before each regular session of the legislature, to publish a report that includes an evaluation of the pilot program's effectiveness and recommendations.

Mutual Aid Agreements for Newborn Screening Laboratory Services—H.B. 1671

by Representative Crownover et al.—Senate Sponsor: Senator Nelson

The Texas Newborn Screening Program currently tests every infant born in the state, once at 24 to 48 hours after birth and again at one to two weeks old, for 27 "silent" genetic disorders. This program is invaluable; however, it is under threat during times of disaster, such as the 2005 and 2008 hurricane seasons. To prevent the interruption of screening tests and the possibility of missing a critical diagnosis, it may be necessary to transfer the laboratory's tasks to a laboratory in another state during a time of disaster. This bill:

Authorizes the Department of State Health Services to enter into a mutual aid agreement to provide newborn screening laboratory services to another state and to receive newborn screening laboratory services from another state in the event of an unexpected interruption of service, including an interruption caused by a disaster.

Requires each mutual aid agreement to include provisions to address the confidentiality of the identity of the newborn child and the newborn child's family and to ensure the return of blood specimens and related records to the state that received the newborn screening laboratory services.

Transfer of Property from the State to Hidalgo County—H.B. 1884

by Representatives Pena and Gonzales—Senate Sponsor: Senator Hinojosa

The 80th Legislature, Regular Session, 2007, authorized the Department of State Health Services (DSHS) to construct a primary care and substance abuse treatment facility in Hidalgo County. To construct the facility, the property on which the facility was to be built had to be transferred to the state. Upon completion of construction in January 2010, the property must be transferred back to Hidalgo County to allow the county to operate the facility. This bill:

Requires DSHS to transfer all or part of the real property to Hidalgo County as soon as practicable after the completion of the construction of improvements on the property required for the provision of outpatient health care services.

Adoption of the Revised Uniform Anatomical Gift Act—H.B. 2027

by Representative Zerwas et al.—Senate Sponsor: Senator Harris

In 2007, more than 500 people in Texas died while awaiting an organ transplant, and currently, more than 7,000 Texans are in need of a transplant. Texas donation and receipt of organs, tissues, and eyes are governed by the Texas Anatomical Gift Act, which was enacted by the 71st Legislature, Regular Session, in 1989. In 2006, the National Conference of Commissioners on Uniform State Law constructed the Revised Uniform Anatomical Gift Act to facilitate organ donation. This bill:

Authorizes an anatomical gift of a donor's body or part to be made during the life of the donor for transplantation, therapy, research, or education.

Sets forth ways in which a donor can make an anatomical gift.

Authorizes a donor or other person authorized to make an anatomical gift to make a gift by a donor card or other record or by authorizing that a statement or symbol indicating the donor has made an anatomical gift be included on a donor registry.

Authorizes a donor or other person authorized to make an anatomical gift to amend or revoke an anatomical gift by a record signed by the donor or a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift.

Authorizes an individual to refuse to make an anatomical gift of the individual's body or part by a record signed by the individual, the individual's will, or any form of communication made by the individual during the individual's terminal illness or injury.

Provides that in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part or an amendment to an anatomical gift of the donor's body or part.

Authorizes that an anatomical gift of a decedent's body or part for transplantation, therapy, research, or education be made by certain persons, including the decedent's agent at the time of death who could have made an anatomical gift immediately before the decedent's death, spouse, adult children, parents, and adult siblings.

Authorizes that an anatomical gift be made, in the document of gift, to such organizations as an organ procurement organization to be used for transplantation, therapy, research, or education; a hospital to be used for research; an individual designated by the person making the anatomical gift if the individual is the recipient of the part; an eye bank or tissue bank; a forensic science program at a general academic teaching institution or a private or independent institution of higher education; or the Anatomical Board of the State of Texas.

Requires that the donor card of a person who is involved in an accident or other trauma accompany the person to the hospital or other health care facility and that the driver's license or personal identification certificate indicating an affirmative statement of gift of a person who is involved in an accident or other trauma accompany the person to the hospital or health care facility if the person does not have a donor card.

Provides that a document of gift need not be delivered during the donor's lifetime to be effective.

Requires a procurement organization, when a hospital refers an individual at or near death to the organization, to make a reasonable search of the records of the Department of Public Safety (DPS) and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

Authorizes a person to accept or reject an anatomical gift wholly or partly.

Prohibits the physician who attends the decedent at death or the physician who determines the time of the decedent's death from participating in the procedures for removing or transplanting a part.

Provides that a person commits a Class A misdemeanor if the person for valuable consideration knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death or if the person intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal.

Provides that a person who acts in good faith is not liable for civil damages or subject to criminal prosecution for the person's action if the prerequisites for an anatomical gift are met under the laws applicable at the time and place the gift is made.

Requires that any program that the Department of State Health Services (DSHS) develops under this bill be known as the Glenda Dawson Donate Life-Texas Registry (registry program).

Requires DSHS to establish the registry program.

Requires DSHS to enter into an agreement with an organization selected by the commissioner of state health services under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors.

Requires that the contract between DSHS and the organization require the organization to make information obtained from DPS available to procurement organizations; allow potential donors to submit information in writing directly to the organization for inclusion in the Internet-based registry; maintain the Internet-based registry to allow procurement organizations to immediately access organ, tissue, and eye donation information; and protect the confidentiality and privacy of the individuals.

Requires DPS to remit to the comptroller of public accounts the money collected to pay for certain costs of the program and educate residents about anatomical gifts.

Authorizes DSHS to implement an education program for health care providers and attorneys and a training program for all appropriate DPS and Texas Department of Transportation (TxDOT) employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the Internet-based registry.

Requires the prospective donor's attending physician and prospective donor to confer to resolve the conflict if a prospective donor has a declaration or advance directive that is in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy and an expedited review of the matter be initiated by an ethics or medical committee of the appropriate health care facility if the conflict cannot be resolved.

Authorizes the county court, rather than the medical examiner, to permit the removal of a nonvisceral organ or tissue if a person who is authorized to reject the removal of an organ cannot be identified and contacted within four hours after death is pronounced and the county court determines that no reasonable likelihood exists that such person can be identified and contacted during the four-hour period.

Deletes existing text prohibiting a medical examiner or a person acting on the authority of a medical examiner from removing a visceral organ unless the medical examiner or person obtains the consent of a authorized person.

Repeals the Donor Education, Awareness, and Registry Program of Texas and the Texas Anatomical Gift Act.

Repeals Chapter 693.004, Health and Safety Code, regarding persons who may consent or object to removal of tissue or a body part and Chapter 521.404, Transportation Code, requiring the receiving hospital or facility to immediately notify a qualified organ or tissue procurement organization as soon as brain death or cardiac death occurs.

Digital and Witness Signatures on Advance Directives—H.B. 2585

by Representative Hartnett—Senate Sponsor: Senator Uresti

Advance medical directives (AMDs), such as do-not-resuscitate (DNR) orders, are documents issued by a patient that direct a health care provider to provide specific treatments in the event that the patient is incapacitated. AMDs allow patients to pre-determine what medical treatments, if any, they will receive if they are unable to communicate and are required by law to be confirmed with the patient's manual signature. This bill:

Authorizes the declarant, witness, or notary public, for an advance directive in which a signature is required, to sign the directive or a written revocation of the directive using a digital or electronic signature.

Requires the declarant to sign the directive, including a DNR order, in the presence of two witnesses who qualify, at least one of whom is required to be a witness who qualifies.

Authorizes the declarant, in lieu of signing in the presence of witnesses, to sign the directive and have the signature acknowledged before a notary public.

Provides that a written directive is effective without regard to whether the document has been notarized.

Require the responding health care professionals to determine that the out-of-hospital DNR order form appears to be valid in that it includes certain information.

Hydrocephalus Awareness Month—H.B. 3597

by Representative Parker—Senate Sponsor: Senator Nelson

Hydrocephalus is a neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the brain. Hydrocephalus may occur at any age and affects an estimated one million Americans. Hydrocephalus is the leading cause of brain surgery in children. This bill:

Designates October as Hydrocephalus Awareness Month.

Requires regular observance of Hydrocephalus Awareness Month through appropriate activities in public schools and other places to increase awareness of hydrocephalus.

Texas Integrated Eligibility Redesign System Staffing Analysis—H.B. 3859

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

In 2003, Texas initiated a pilot program to test the applicability of the Texas Integrated Eligibility Redesign System (TIERS), a modernized browser-based system that determines persons' eligibility for state benefits provided by the Health and Human Services Commission (HHSC). HHSC has continued to "roll out" TIERS to other parts of the state and now uses TIERS to determine a person's eligibility for benefits in the Women's Health Program. This bill:

Requires HHSC to conduct a thorough analysis of staffing needs, including the need for additional state employees and contractor staff, with respect to the enhanced eligibility system and the expansion of the use of the TIERS.

Requires HHSC to identify in the analysis the number of full-time equivalent (FTE) positions HHSC needs to implement the system in a manner that, if met, will ensure that the system remains fully functional and that no lapses in the provision of HHSC benefits will occur under the system and the number of FTE positions any contractor would need to perform contracted functions to implement the system in that manner.

Requires HHSC, in determining the total number of HHSC and contractor FTE positions needed, to consider the number of FTE positions necessary to comply with HHSC's performance standards and state and federal requirements related to HHSC program access, including requirements related to timeliness and accuracy of application processing, delivery of expedited services and benefits, and seamless transfers of eligible children between the Medicaid and child health plan programs.

Release of Certain Health Care Information—H.B. 4029

by Representative Marquez—Senate Sponsor: Senator Shapleigh

Current law requires a public hospital, after disclosure requests under public information laws, to release patients' payment information. This practice is inconsistent with the federal Health Insurance Portability and Accountability Act (HIPAA). Additionally, hospitals are authorized to charge a per-page price for copies of medical records. Because most records are now electronically stored and transferred, this fee scheme is no longer necessary. This bill:

Expands the definition of "health care information" to include a patient's payment information for purposes of determining information subject to disclosure requirements.

Requires a hospital on receipt of a written authorization from a patient to examine or copy the patient's recorded health care information, except payment information.

Authorizes a hospital to charge a fee that cannot exceed \$75 and the actual cost of delivery to a patient for providing health care information, except payment information, that is provided and delivered on a digital or other electronic medium, including e-mail.

Public Fund Use for Playground Facilities—H.B. 4127

by Representative Hartnett—Senate Sponsor: Senators Carona and Zaffirini

Playground design standards are set by the American Society of Testing and Materials (ASTM) and are complied with throughout the playground design industry, domestically and internationally. Texas statute, however, is outdated because it provides that playground design standards are set by the Handbook for Public Playground Safety published in 1994 by the United States Consumer Product Safety Commission. This bill:

Prohibits public funds from being used to purchase playground equipment, playground surfacing, and installation of equipment that does not comply with each applicable provision of ASTM standards or has a horizontal bare metal platform or a bare metal step or slide, unless it is shielded from direct sun.

Authorizes public funds to be used for maintenance of playground equipment or surfacing for the area under and around playground equipment that was purchased before September 1, 2009, even if the equipment or surfacing does not comply, on completion of the maintenance, with each applicable provision of ASTM standards.

Rep. Jim Solis and Colonel H. William "Bill" Card, Jr. Outpatient Clinic—H.B. 4642

by Representative Lucio III et al.—Senate Sponsor: Senators Lucio and Uresti

The purpose of this bill is to rename the outpatient clinic operated by the South Texas Health Care System in Harlingen the Rep. Jim Solis and Colonel H. William "Bill" Card, Jr. Outpatient Clinic in honor of their contributions to the city of Harlingen. This bill:

Provides that the outpatient clinic operated by the South Texas Health Care System in Harlingen, Texas, is named the Rep. Jim Solis and Colonel H. William "Bill" Card, Jr. Outpatient Clinic.

Deaf-Blind With Multiple Disabilities Waiver Program—S.B. 37

by Senator Zaffirini—House Sponsor: Representatives Naishtat and Herrero

The deaf-blind with multiple disabilities waiver program is operated by the Department of Aging and Disability Services (DADS) to provide services such as assisted living, intervener assistance, and behavioral communication to persons with deaf-blindness and another disability. The program, however, is only available to adults. Thus, children who have received a diagnosis cannot benefit from the program's services at a time when early education and intervention are especially crucial. This bill:

Requires DADS, subject to the availability of funds, to provide home-based and community-based services under the deaf-blind with multiple disabilities waiver program, regardless of age, if the person applies for and is eligible to receive services under the waiver program.

Provides that DADS is not prevented from establishing an age requirement with respect to other programs or services offered, including the summer outdoor training program for deaf-blind multi-handicapped individuals.

Intervener Services for Deaf Blind With Multiple Disabilities Waiver Clients—S.B. 63

by Senator Zaffirini—House Sponsor: Representatives Naishtat and Herrero

An intervener is a facilitator who involves a person who is both deaf and blind in community activities by assisting with communication and providing information about the environment. Clients of the deaf-blind with multiple disabilities waiver program are in need of significant professional assistance, without which they would have a very limited understanding of their surroundings. To be able to provide a high level of assistance to deaf-blind persons, interveners must be properly trained and experienced through extensive academic and internship training. This bill:

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to adopt a career ladder for persons who provide intervener services under the deaf-blind with multiple disabilities waiver program based on credentialing standards for interveners developed by the Academy for Certification of Vision Rehabilitation and Education Professionals or any other private credentialing entity that the executive commissioner determines is appropriate.

Requires that the rules provide a system under which each person may be classified based on the person's level of training, education, and experience, as an Intervener, Intervener I, Intervener II, or Intervener III.

Requires that the compensation an intervener receives for providing services under the deaf-blind with multiple disabilities waiver program be based on and commensurate with the intervener's career ladder classification.

Study of Retail Availability of Healthy Foods in Certain Areas of Texas—S.B. 343

by Senator Nelson et al.—House Sponsor: Representative McReynolds

Obesity is a major challenge to the health and productivity of the state's population. If current trends continue, the annual costs associated with obesity are expected to reach \$15.6 billion by 2010. One contributor to obesity, in addition to smoking and poor fitness, is an unhealthy diet caused, in part, by limited access to healthy foods. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) and the commissioner of the Texas Department of Agriculture (TDA) to jointly establish an advisory committee to study and provide recommendations to the legislature regarding the areas of this state that are underserved in the retail availability of fresh fruits and vegetables and other healthy foods and the impact of the limited retail availability on proper nutrition and on obesity and related chronic illnesses.

Requires the executive commissioner of HHSC and the commissioner of TDA to ensure that the advisory committee members reflect the diversity of this state, with members representing rural areas, urban areas, and different geographical regions.

Requires the advisory committee to develop recommendations for creating and a plan for implementing a statewide financing program to bring fresh food retailers into areas of this state that are underserved in regard to such availability, and to perform other advisory duties as requested by the executive commissioner of HHSC or the commissioner of TDA regarding that availability.

Requires the advisory committee to submit to the legislature a report outlining the costs, benefits, and feasibility of a statewide financing program to bring fresh food retailers into areas of this state that are underserved.

Grants for Federally Qualified Health Centers—S.B. 526

by Senator Nelson et al.—House Sponsor: Representative "Mando" Martinez

Federally qualified health centers (FQHCs) are non-profit entities that provide primary and preventative health care services to low-income and medically underserved persons. In 2003, the 78th Legislature, Regular Session, enacted S.B. 610 to increase the number of FQHCs by authorizing the Department of State Health Services (DSHS) to make grants to establish or expand certain facilities that can qualify as FQHCs. This authorization expired on September 1, 2009. This bill:

Authorizes DSHS to make grants to establish new or expand existing facilities and to support new or expanded services at facilities that can qualify as FQHCs, in this state, including planning grants, development grants, capital improvement grants, and grants for transitional operating support.

Crematory Establishments' Authority to Accept Unidentified Human Remains—S.B. 571

by Senator Hinojosa—House Sponsor: Representative Gonzales

Some health departments in counties across Texas no longer have the capacity to store unidentified human remains. Current law authorizes counties to dispose of unidentified human remains by cremation; however, crematory establishments are not authorized to accept such remains. This bill:

Authorizes a crematory establishment to accept unidentified human remains for cremation from a county on the order of the county commissioners court or a court located in the county.

Exemptions of Trusts from Liability to Pay for Support in Certain Facilities—S.B. 584

by Senators Van de Putte and Shapleigh—House Sponsor: Representative Gonzales

Current law allows persons with disabilities who enter into a mental health facility or residential care facility for inpatient treatment to establish a trust not exceeding \$250,000 that is exempt from support, maintenance, and treatment charges at such facilities. Funds from the trust are authorized to be used to help the patient successfully transition to community living and avoid readmission to a facility. Current law, however, does not require such facilities to inform patients of this opportunity. This bill:

Requires a state-operated facility and residential care facility, at the time a patient is admitted to a facility for voluntary or involuntary inpatient mental health services, to provide to the patient, and the parent if the patient is a minor or the guardian of the person of the patient, written notice that a trust that qualifies is not liable for the patient's support.

Requires the facility to ensure that, within 24 hours after the patient is admitted to the facility, the notification is explained to the patient orally, in simple, nontechnical terms or through a means reasonably calculated to communicate with a patient who has an impairment of vision or hearing.

Study Regarding the Confidentiality of Prescription Information—S.B. 646

by Senators Van de Putte and Deuell—House Sponsor: Representative Kolkhorst

The cost of prescription drugs continues to rise and some low-income Texans are forced to choose between purchasing life-saving medications and food. While it is currently unclear, some suspect that data-mining, or the buying and selling of patient health information, is a possible cause of increased prescription drug costs. This bill:

Requires the Texas State Board of Pharmacy (TSBP) to conduct a study, which is to be submitted to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature, on the license, transfer, use, and sale of prescription information records containing patient-identifiable and practitioner-identifiable information by pharmacy benefit managers, insurers, electronic transmission intermediaries, pharmacies, and other similar entities for the purpose of advertising, marketing, or promoting pharmaceutical products.

Provides that pharmacy benefit managers, insurers, electronic transmission intermediaries, pharmacies, and other similar entities that fail to provide to TSBP the information requested for the study before the 90th day after the date TSBP requests the information are subject to penalties.

Use of a Mausoleum Beneath Certain Religious Buildings—S.B. 662

by Senator Lucio et al.—House Sponsor: Representatives Lucio III and Oliveira

Current law prohibits a mausoleum from being used to house the remains of clergy members beneath a main building of worship. Current law does, however, allow for the construction and use of columbariums, which are similar in nature to mausoleums and also house cremated remains. This bill:

Exempts from restrictions relating to municipal boundaries and population the establishment and use of a mausoleum that is constructed beneath the principal church building owned by a tax-exempt organized religious society or sect that has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building.

Statewide Health Coordinating Council—S.B. 1326

by Senator Nelson—House Sponsor: Representative Susan King

The Texas Statewide Health Coordinating Council (SHCC) is a 17-member council created to ensure that health care services and facilities are available to all Texans through health planning activities and to assist with the implementation of the Texas State Health Plan. The current statute regulating SHCC is outdated and inconsistent. This bill:

Authorizes SHCC to form advisory boards or ad hoc committees composed of individuals, rather than health care experts, from the public and private sectors to review policy matters related to SHCC's purpose.

Deletes existing text requiring the staff of the Bureau of State Health Data and Policy Analysis that previously assisted SHCC to continue to assist SHCC.

Provides that a hospital that does not submit the required data to the Department of State Health Services is subject to civil penalties.

Repeals Section 104.003 (Federal Law), Health and Safety Code and Section 104.041 (State Health Planning and Development Agency), Health and Safety Code.

Study on Providing Vaccines to First Responders in Disasters Areas—S.B. 1328

by Senator Nelson—House Sponsor: Representative Naishtat

First responders to areas affected by emergencies and disasters should receive certain vaccines to prevent them from acquiring a serious disease or condition, such as hepatitis A and B and tetanus. However, first responders often do not receive vaccinations until after they have already entered the disaster area. This bill:

Requires the Department of State Health Services (DSHS) to conduct a study to determine the feasibility of providing certain vaccines to a first responder who may be exposed to vaccine-preventable diseases during the responder's deployment to a disaster area and the immediate family members of a first responder to whom the first responder may transmit a vaccine-preventable disease after deployment to a disaster area.

Requires the statewide wellness coordinator to assist DSHS in obtaining data from state agencies that employ first responders.

Requires DSHS to submit a written report containing the findings of the study and DSHS's recommendations to the legislature.

Definition of First Responder for the Immunization Registry—S.B. 1409

by Senator Shapleigh—House Sponsor: Representative McReynolds

The current definition of a first responder in the Government Code excludes certain critical persons, such as clinicians, epidemiologists, environmental health specialists, certain assessment teams, representatives of Texas military forces, local and state emergency management personnel, and those working with food and water. Including such persons in the definition will enable them to receive vaccinations during times of disaster. This bill:

Redefines "first responder" to mean any federal, state, local, or private personnel who may respond to a disaster, including public health and public safety personnel, commissioned law enforcement personnel, fire protection personnel, emergency medical services personnel, a member of the National Guard, a member of the Texas State

Guard, or any other worker who responds to a disaster in the worker's scope of employment or any related personnel that provide support services during the prevention, response, and recovery phases of a disaster.

Creation of the Council on Children and Families—S.B. 1646

by Senators Van de Putte and Zaffirini—House Sponsor: Representatives Naishtat and John Davis

Texas does not currently have an oversight agency to coordinate the work of the 10 state agencies and various local entities that provide services and funding to children and youth. The lack of coordination in service delivery hampers parents' attempts to navigate the many disconnected programs that are available. An agency with oversight capabilities can improve coordination and reduce the duplication of services and unnecessary spending. This bill:

Establishes the Council on Children and Families (council) to coordinate the state's health, education, and human services systems to ensure that children and families have access to needed services; improve coordination and efficiency in state agencies, advisory councils on issues affecting children, and local levels of service; prioritize and mobilize resources for children; and facilitate an integrated approach to providing services for children and youth.

Requires the council to promote a common vision of desired outcomes for children and youth and of family and community supports, promote shared accountability for outcomes for children and youth, and align allocations of resources with policies for children and youth.

Requires the Health and Human Services Commission (HHSC), through HHSC's Office of Program Coordination for Children and Youth, to provide administrative support and resources to the council to enable the council to perform its duties.

Sets forth the required duties of the council.

Requires the council to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature that contains the requests, plans, and recommendations of the council.

Provides that the council is subject to the Texas Sunset Act.

Provides that the council is abolished on September 1, 2019, unless continued in existence as provided by the Texas Sunset Act.

Informational Manual for Certain Voluntary Caregivers—S.B. 1723

by Senator Van de Putte—House Sponsor: Representative Guillen

The Department of Family and Protective Services (DFPS) increasingly places Texas children in kinship care, or relative caregiver placements, rather than in foster care. Relative caregivers provide a more familiar and stable environment to a child who can no longer stay in his or her parents' home. However, relatives are often hesitant to provide such care because they may lack financial and informational resources. This bill:

Requires DFPS to develop and publish informational manuals that provide information for certain individuals, including a voluntary caregiver.

Requires that the information provided in the manuals be in both English and Spanish and include certain information, including information regarding the role of a voluntary caregiver and how to obtain any documentation necessary to provide for a child's needs.

Creation of a Housing and Health Services Coordination Council—S.B. 1878

by Senator Nelson—House Sponsor: Representative Chavez

The Legislative Budget Board (LBB) wrote in a 2009 report, *Government Effectiveness and Efficiency: Selected Issues and Recommendations*, that many Texas seniors would be better served in a supportive service-enriched housing environment than in expensive institutional care. Service-enriched housing combines long-term housing in senior citizen independent living apartments, assisted living facilities, and public housing apartments with accessible health care services to allow seniors to "age in place." This bill:

Requires the Texas Department of Housing and Community Affairs (TDHCA) to establish a housing and health services coordination council (council).

Requires the council to meet at least quarterly.

Requires the council to develop and implement policies to coordinate and increase state efforts to offer service-enriched housing; identify barriers preventing or slowing service-enriched housing efforts; develop a system to cross-educate selected staff in state housing and health services agencies to increase the number of staff with expertise in both areas and to coordinate relevant staff activities of those agencies; identify opportunities for state housing and health services agencies to provide technical assistance and training to local housing and health services entities about cross-education of staff, coordination among those entities, and certain opportunities; and develop suggested performance measures to track progress in certain areas.

Requires the council to develop a biennial plan to implement its goals and deliver a report of the council's findings and recommendations to the governor and LBB.

Sets forth the requirements of TDHCA employees assigned to provide advisory support to the council.

Authorization of Certain Nonemergency Ambulance Services—S.B. 2424

by Senator Deuell—House Sponsor: Representative Naishtat

Current law requires the Health and Human Services Commission (HHSC) to have resources available to respond to non-emergency ambulance prior authorization requests 24 hours a day, seven days a week, and 365 days a year. The purpose of this bill is to minimize operational costs for a service that impacts very few prior authorization requests and allow HHSC to return to former prior authorization practices without disrupting client services. This bill:

Requires HHSC by rule to require a physician, nursing facility, health care provider, or other responsible party to obtain authorization from HHSC on the same day or the next business day following the day of transport when an ambulance is used to transport a recipient of medical assistance in circumstances not involving an emergency and the request is for the authorization of the provision of transportation for only one day.

Requires HHSC by rule, if the request is for authorization of the provision of transportation on more than one day, to require a physician, nursing facility, health care provider, or other responsible party to obtain a single authorization before an ambulance is used to transport a recipient of medical assistance in circumstances not involving an emergency.

Sets forth certain requirements of the rules, including that a request for authorization is required to be immediately granted and effective for a period of not more than 180 days from the date of issuance if the request includes a written statement containing certain information from a physician and that HHSC or a person authorized to act on behalf of HHSC is required to be available to evaluate requests for authorization not less than 12 hours each day, excluding weekends and state holidays.

Implementation of a Provider Choice System for Certain Vaccines—H.B. 448

by Representative Hopson—Senate Sponsor: Senator Carona

In 2007, the 80th Legislature enacted S.B. 811 to create a new method of purchasing influenza vaccines for the Vaccines for Children program (VFC). Participating providers in VFC select and purchase flu vaccines from a list of all flu vaccines available. For remaining vaccines, the state is required to purchase equal amounts of equivalent vaccines available, if the price is within 10 percent. This bill:

Requires the Department of State Health Services (DSHS) to implement a provider choice system for the VFC program and the adult safety net vaccination program.

Requires DSHS to ensure that eligible health care providers participating in the VFC program or adult safety net vaccination program are authorized to select any licensed vaccine; are made available to DSHS by the Centers for Disease Control and Prevention; and for adult vaccines, are on the DSHS-approved list of vaccines offered by the adult safety net vaccination program.

Requires DSHS to provide a vaccine selected by a health care provider only if the cost to DSHS of providing the vaccine is not more than 115 percent of the lowest-priced equivalent vaccine.

Provides that this bill does not apply in the event of a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

Requires DSHS to convene the immunization work group and solicit its recommendations regarding development of a plan for the implementation of the provider choice system.

Repeals Section 161.0103 (Vaccines for Children Program; Equivalent Vaccines), Health and Safety Code.

Fall Prevention Awareness—H.B. 703

by Representatives Rose and Naishtat—Senate Sponsor: Senator Nelson

Every 28 seconds, a senior American is treated in a hospital emergency room for a fall, and every 35 minutes, one of these seniors dies because of injuries sustained in the fall, according to the Centers for Disease Control and Prevention. Falls among seniors have led to approximately 80,000 annual hospitalizations and resulted in 40 percent of all nursing home placements. Despite the high fall rate, research has shown that focused prevention measures can reduce the incidence of falls by 30 to 50 percent. This bill:

Provides that the week that begins on the first Sunday of each year that falls after the date of the autumnal equinox is declared "Fall Prevention Awareness Week."

Authorizes the Department of Aging and Disability Services to develop recommendations to raise public awareness about fall prevention; educate older adults and individuals who provide care to older adults about best practices to reduce the incidence and risk of falls among older adults; encourage state and local governments and the private sector to promote policies and programs that help reduce the incidence and risk of falls among older adults; encourage area agencies on aging to include fall prevention education in their services; develop a system for reporting falls to improve available information on falls; and incorporate fall prevention guidelines into state and local planning documents that affect housing, transportation, parks, recreational facilities, and other public facilities.

Newborn Screening and Creation of Newborn Screening Advisory Committee—H.B. 1795

by Representative Pierson et al.—Senate Sponsor: Senators Uresti and Zaffirini

Currently, all newborns in Texas are screened for 27 genetic diseases. However, the American College of Medical Genetics, under commission by the U.S. Department of Health and Human Services and publisher of "Newborn Screening: Toward a Uniform Screening Panel and System," recommended that states screen infants for 54 genetic diseases. An early diagnosis of a disease allows patients to receive treatment before the disease progresses and leads to severe illness or death. Additionally, it is recommended that testing for human immunodeficiency virus (HIV) infection be completed during pregnancy to prevent the disease's transmission to the infant. This bill:

Requires the Department of State Health Services (DSHS) to require, after January 1, 2010, newborn screening tests to screen for disorders recommended in the report entitled "Newborn Screening: Toward a Uniform Screening Panel and System" or another report determined by DSHS to provide more stringent newborn screening guidelines.

Authorizes DSHS to require additional newborn screening tests, screen for other disorders or conditions, and exclude screenings for galactose epimerase and galactokinase from the newborn screening tests.

Requires DSHS to establish the Newborn Screening Advisory Committee, which will consist of certain members who will advise DSHS regarding strategic planning, policy, rules, and services related to newborn screening; meet at least three times each year; and appoint subcommittees.

Requires third trimester diagnostic HIV testing or expedited diagnostic HIV testing at delivery for women with no record of a third trimester test and diagnostic HIV testing of the newborn when there is no record of maternal third trimester or delivery testing.

Requires the physician to advise the woman that the test results are confidential but not anonymous before conducting a diagnostic test for HIV infection and distribute printed materials about Acquired Immune Deficiency Syndrome (AIDS), HIV, hepatitis B, and syphilis to the patient.

Prohibits a physician from conducting a diagnostic test for HIV infection if the woman objects.

Performance of Pharmacy Services in Certain Rural Areas—H.B. 1924

by Representative Heflin—Senate Sponsor: Senator Seliger

Class C pharmacies, or institutional pharmacies, are generally located in hospitals with less than 100 beds. These pharmacies, which are often in rural areas where there is a shortage of health professionals, are required to have the services of a part-time or consulting pharmacist. However, a new rule instituted by the Texas State Board of Pharmacy (TSBP) requires a licensed pharmacist to be on-site full-time during a hospital's regular hours of business. This bill:

Authorizes a nurse or practitioner, if a practitioner orders a prescription drug or device for a patient in a rural hospital when the hospital pharmacist is not on duty or when the institutional pharmacy is closed, to withdraw the drug or device from the pharmacy in sufficient quantity to fill the order.

Requires the hospital pharmacist to verify the withdrawal of a drug or device and perform a drug regimen review not later than the seventh day after the date of the withdrawal.

Authorizes the pharmacy technician to, during the hours that the institutional pharmacy in the hospital is open, perform certain duties in the pharmacy without the direct supervision of a pharmacist if the pharmacy technician is registered and meets the training requirements specified by TSBP, a pharmacist is accessible at all times to respond

to any questions and needs, and a nurse or practitioner or a pharmacist by remote access verifies the accuracy of the actions of the pharmacy technician.

Requires the pharmacist-in-charge of an institutional pharmacy in a rural hospital to develop and implement policies and procedures for the operation of the pharmacy when a pharmacist is not on-site.

Authorizes TSBP to establish a requirement for prospective and retrospective drug use review by a pharmacist for each new drug order.

Authorizes rural hospitals to establish standing orders and protocols that may include additional exceptions to instances in which prospective drug use review is required.

Authorizes a Class C pharmacy that has an ongoing clinical pharmacy program to allow a pharmacy technician to verify the accuracy of work performed by another pharmacy technician relating to the filling of floor stock and unit dose distribution systems for a patient admitted to the hospital if the patient's orders have previously been reviewed and approved by a pharmacist.

Requires TSBP to adopt rules to implement this bill.

E-Prescribing Plan Under Medicaid and Child Health Plan Programs—H.B. 1966

by Representative John Davis et al.—Senate Sponsor: Senator Nelson

Electronic prescribing (e-prescribing) is a physician's ability to electronically send an accurate and understandable prescription directly to a pharmacy. Because it greatly reduces medication errors and improves patient safety, many are advocating the adoption of e-prescribing. This bill:

Requires the Health and Human Services Commission (HHSC) to develop, under the vendor drug program for the Medicaid and child health plan programs, an e-prescribing implementation plan that establishes e-prescribing standards and timeframes with which pharmacists, practitioners, pharmacy benefit managers, and health plans that transmit prescriptions for Medicaid program recipients and child health plan program enrollees and prescription-related information using electronic media must comply.

Requires HHSC to submit an initial and final report to the governor and the Legislative Budget Board detailing the e-prescribing implementation plan.

Chronic Kidney Disease Task Force—H.B. 2055

by Representative Guillen—Senate Sponsor: Senator Zaffirini

The incidence of chronic kidney disease (CKD), a deadly condition in which the kidneys cease to function, has risen in the United States and Texas over the last several years. Texas currently has the second highest prevalence of CKD in the country, and over 42,000 residents are receiving renal replacement therapy to stay alive. To prevent the initial development and progression of CKD, a healthy diet and exercise are essential. This bill:

Requires the Chronic Kidney Disease Task Force (task force) to develop a cost-effective plan for prevention, early screening, diagnosis, and management of CKD for the state's population and develop a plan for surveillance and data analysis to assess the impact of CKD.

Requires the task force to submit its findings and recommendations to the governor, lieutenant governor, speaker of the house of representatives, and the presiding officers of the appropriate committees of the 81st Legislature.

Integrated Health Care Services and Services for Children With Special Needs—H.B. 2196

by Representative Truitt—Senate Sponsor: Senator Deuell

Persons with mental illness are likely to acquire other health problems, such as cardiovascular, pulmonary, and infectious diseases, because they often do not receive proper or timely health care. Integrated health care improves access to and service outcomes for persons with mental illness. Additionally, a lack of coordination and efficiency in the provision of services to children with special needs prevents such children from receiving necessary health care that improves development. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) (executive commissioner) to establish a workgroup to recommend best practices in policy, training, and service delivery to promote the integration of health and behavioral health services.

Requires the executive commissioner to file a report with the appropriate committees of the senate and the house of representatives that describes the best practices for health and behavioral health integration, barriers to implementing the best practices, and policy considerations for improving integrated service delivery.

Requires the governor to oversee the Interagency Task Force for Children with Special Needs (task force) created and administered by HHSC to improve the coordination, quality, and efficiency of services for children with special needs.

Requires the task force to coordinate with federal agencies to compile a list of opportunities to increase flexible funding for services for children with special needs; conduct a review of state agency policies and procedures related to service delivery for children with special needs; perform a needs assessment; and develop a five-year plan to improve the coordination, quality, and efficiency of services for children with special needs.

Requires the task force to submit a biennial report on the progress of each agency represented on the task force to the governor, lieutenant governor, and speaker of the house of representatives.

Requires the task force to meet at least once each quarter.

Requires the governor to appoint an interagency coordinator from HHSC as the presiding officer of the task force.

Requires the task force director hired by the interagency coordinator to prepare the required plan and reports, work with each task force representative to schedule meetings and deadlines relevant to the representative's agency, and work with the interagency coordinator to assign subcommittee leadership positions.

Requires the interagency coordinator to establish subcommittees to address early childhood detection and intervention, education, health care, transitioning youth, crisis prevention and intervention, juvenile justice, long-term, community-based services and supports, and mental health.

Provides that the task force is subject to the Texas Sunset Act and is abolished on September 1, 2015, unless continued in existence as provided by the Texas Sunset Act.

Laboratory Tests Measuring Kidney Function—H.B. 2330

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Chronic kidney disease (CKD) is a condition in which diabetes, hypertension, or other medical condition causes end stage renal disease. Approximately 42,000 Texas residents are currently receiving renal replacement therapy, which can cost \$70,000 per person per year and is required if CKD is diagnosed at a late stage in its development. If CKD

is diagnosed in its early stages, usually through laboratory tests, then the patient has a significantly greater chance of fully recovering. This bill:

Requires a laboratory that performs a serum creatinine test on a sample from a person 18 years of age or older to also calculate and include in the reported results the person's estimated glomerular filtration rate (GFR) or the results of an alternative equivalent calculation measuring kidney function.

Requires a physician requesting a serum creatinine test to provide to the laboratory all relevant clinical information about the person necessary to calculate the person's estimated GFR or perform an alternative equivalent calculation unless the physician determines that the calculation is unnecessary.

Authority to Provide Health Care to an Indigent Patient—H.B. 2963

by Representative Coleman—Senate Sponsor: Senator Dan Patrick

The Indigent Health Care and Treatment Act requires each Texas county, through hospital districts, public hospitals, and county indigent healthcare programs, to provide health care for residents below 21 percent of the federal poverty threshold. Current law requires a county, hospital district, or public hospital to pay a claim made by a provider in accordance with Chapter 61, Health and Safety Code. This bill:

Requires a county, hospital district, or public hospital to determine whether the patient to whom services were provided is an eligible resident of the service area of the county, hospital district, or public hospital and, if so, to pay the claim made by the provider to the extent that the county, hospital district, or public hospital is liable under the Indigent Health Care and Treatment Act.

Authorizes a county, public hospital, or hospital district to provide or arrange to provide health care services for eligible county residents through the purchase of health coverage or other health benefits.

Health Care-Associated Infections and Preventable Adverse Events—S.B. 203

by Senator Shapleigh et al.—House Sponsor: Representatives Coleman and Yvonne Davis

The cost of health care is on the rise, in part because of extended patient hospital stays associated with hospital-acquired infections (HAIs). According to the Advisory Panel on Health Care-Associated Infections created by S.B. 872, 79th Legislature, Regular Session, HAIs account for an estimated two million infections, 90,000 deaths, and \$4.5 billion nationwide in excess health care costs annually. This bill:

Requires a health care facility, other than a pediatric and adolescent hospital, to report to the Department of State Health Services (DSHS) the incidence of surgical site infections, including the causative pathogen if the infection is laboratory-confirmed, occurring in certain procedures.

Authorizes the commissioner of state health services (commissioner) to establish one or more subcommittees to assist the renamed Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events (advisory panel) in addressing health care-associated infections and preventable adverse events relating to hospital care provided to children or other special patient populations.

Provides that the advisory panel is composed of 18, rather than 16, members.

Requires DSHS to establish the Texas Health Care-Associated Infection and Preventable Adverse Events Reporting System within DSHS to provide for, among other things, the reporting of health care-associated preventable adverse

events by health care facilities to DSHS and the public reporting of information regarding health care-associated preventable adverse events by DSHS.

Requires each health care facility to report to DSHS the occurrence of any of the following preventable adverse events involving the facility's patient: a health care-associated adverse condition or event for which the Medicare program will not provide additional payment to the facility and an event included in the list of adverse events identified by the National Quality Forum.

Authorizes the executive commissioner of the Health and Human Services Commission (HHSC) (executive commissioner) to exclude an adverse event from the reporting requirement if the executive commissioner, in consultation with the advisory panel, determines that the adverse event is not an appropriate indicator of a preventable adverse event.

Requires DSHS to compile and make available to the public a summary, by health care facility, of the infections and preventable adverse events reported by facilities.

Prohibits a state employee or officer from being examined in a civil, criminal, or special proceeding, or any other proceeding, regarding the existence or contents of information or materials obtained, compiled, or reported by DSHS.

Authorizes DSHS to disclose information reported by health care facilities to other programs within DSHS, to HHSC, and to other health and human services agencies for public health research or analysis purposes only, provided that the research or analysis relates to health care-associated infections or preventable adverse events.

Requires the executive commissioner to adopt rules and procedures necessary to implement the reporting of health care-associated preventable adverse events.

Requires the executive commissioner to abide by certain requirements when adopting rules regarding the denial or reduction of reimbursement under the medical assistance program for preventable adverse events that occur in a hospital setting.

An Adult's Information in the Immunization Registry—S.B. 346

by Senators Nelson and Shapleigh—House Sponsor: Representatives Kolkhorst and Donna Howard

ImmTrac is a confidential state registry designed to electronically hold a child's immunization history that can be made available to schools, licensed child-care facilities, local health departments, public health districts, payors, and state agencies having legal custody of a child. Upon a child's 18th birthday, his or her immunization information is deleted from the ImmTrac registry. However, a person may require access to his or her immunization records beyond age 18 for entry into college, the military, and study abroad programs. This bill:

Authorizes an individual's legally authorized representative or the individual, after the individual has attained 18 years of age, to consent in writing or electronically for the individual's information to remain in the registry after his or her 18th birthday and for his or her subsequent immunizations to be included in the registry.

Requires the written or electronic consent of the minor's legally authorized representative to be submitted to the Department of State Health Services (DSHS) before his or her 18th birthday and the written or electronic consent of the individual or the individual's legally authorized representative to be submitted to DSHS not later than his or her 19th birthday.

Requires the executive commissioner of the Health and Human Services Commission by rule to develop guidelines and procedures for obtaining consent from an individual after the individual's 18th birthday, including procedures for

retaining immunization information in a separate database that is inaccessible by any person other than DSHS during the one-year period during which an 18-year-old may consent to inclusion in the registry.

Authorizes certain insurance companies, health maintenance organizations, other organizations, and health care providers who administer an immunization to an individual 18 years of age or older to provide the data to DSHS.

Requires DSHS to develop educational information, for health care providers, health care clinics, hospitals, and any other health care facility that provides health care to children 14 to 18 years of age, relating to the immunization registry and the option for an individual who is 18 years of age or older to consent to submission and retention of the individual's information in the immunization registry.

Interagency Obesity Council and an Obesity Prevention Pilot Program—S.B. 870

by Senator Lucio—House Sponsor: Representatives Castro and Lucio III

In 2007, approximately 66 percent of adult Texans were obese or overweight. To combat the state's obesity epidemic, the 80th Legislature, Regular Session, 2007, enacted S.B. 556, establishing the Texas Interagency Obesity Council (council), which monitors and evaluates obesity prevention efforts for children and adults. This bill:

Authorizes the council to contract with a private or public university to assist in gathering information.

Authorizes an agency represented on the council to accept gifts and grants on behalf of the council.

Requires the council to create an evidence-based public health awareness plan, explore past successful public health awareness efforts when creating the plan, and solicit input on the plan from the private sector.

Requires the council to provide to the Department of State Health Services (DSHS) information on effective strategies for employers to use to promote workplace wellness, including information on the projected costs and benefits.

Requires the council to submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives that includes a cost estimate and benefits of the plan and recommendations for future legislation.

Requires the Health and Human Services Commission (HHSC) and DSHS to coordinate to establish an obesity prevention pilot program (pilot program) to decrease obesity in child health plan program enrollees and Medicaid recipients, improve the nutritional choices and increase physical activity levels of child health plan program enrollees and Medicaid recipients, and achieve long-term reductions in child health plan and Medicaid program costs incurred by the state as a result of obesity.

Requires HHSC and DSHS to implement the pilot program for a period of at least 24 months in one or more health care service regions in this state.

Requires HHSC to submit an annual and final report to the health and human services-related committees of the senate and house of representatives regarding the results of the pilot program.

Authorizes the executive commissioner of HHSC to adopt rules to implement the pilot program.

Glenda Dawson Donate Life-Texas Registry—S.B. 1803

by Senator Zaffirini—House Sponsor: Representative Laubenberg

The Glenda Dawson Donate Life-Texas Registry (registry) allows for the donation of organs, tissues, and eyes to Texas patients in need. Currently, a potential donor cannot complete the donor registration process until he or she has secured two witnesses signatures and mailed the form back to the registry after completing the form online. These obstacles have prevented some potential donors from completing the registration process. This bill:

Requires, rather than authorizes, the Department of State Health Services (DSHS) to implement a training program for all appropriate Department of Public Safety (DPS) and Texas Department of Transportation (TxDOT) employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the statewide Internet-based registry of organ, tissue, and eye donors.

Provides that DPS and TxDOT employees are not required to answer customer questions about donation or transplantation.

Authorizes the document that makes a donation gift to be a card designed to be carried by the donor or another record signed by the donor or other person making the gift.

Authorizes a statement or symbol in an online donor registry and authorized by the donor indicating the donor has made an anatomical gift to also serve as a document making a gift.

Provides for exceptions to the requirement that the document must be signed by the donor in the presence of two witnesses.

Provides that an online donation registration does not require the consent of another person or require two witnesses and that the online registration constitutes a legal document and remains binding after the donor's death.

Requires DSHS to add a link from DSHS's Internet website to the Donor Education, Awareness, and Registry Program of Texas and provide a method to distribute donor registry information to interested individuals in each office authorized to issue motor vehicle registration.

Requires that donor registry information, rather than donor cards, be provided to DPS and TxDOT by qualified organ or tissue procurement organizations or eye banks

Requires DPS to include with registration renewal notices the question relating to information on the donor registry website and whether the person would like to register as an organ donor.

Hospitals Providing Temporary Outpatient Dialysis During a Disaster—S.B. 1932

by Senator Carona—House Sponsor: Representative McReynolds

Patients with end stage renal disease typically receive outpatient treatment at dialysis clinics. However, during a disaster and evacuation, such patients may require immediate dialysis treatment at area hospitals. Despite this need, current law does not allow hospitals to provide outpatient dialysis treatment. This bill:

Provides an exemption from end stage renal disease facility licensing requirements for a licensed hospital that provides dialysis only to individuals temporarily receiving outpatient services due to a disaster declared by the governor or a federal disaster declared by the president of the United States.

Transfer or Sale of Patient Information by Discount Health Care Programs—S.B. 2423

by Senator Deuell—House Sponsor: Representative Gonzalez Toureilles

Discount health care programs allow program members to receive discounts on certain health care services in exchange for a monthly fee. Patients may be unaware of how their personal prescription information may be sold by some discount health care programs to pharmaceutical companies or other marketers. This bill:

Defines a "discount health care program" to mean a business arrangement or contract in which an entity offers its members access to discounts on health care services provided by health care providers in exchange for fees, dues, charges, or other consideration, including patient information or patient prescription drug history provided by members, if the entity engages in the transfer or sale of such patient information, patient prescription drug history, or drug manufacturer rebates.

Requires the operator of a discount health care program, if the operator engages in the transfer or sale of a member's patient information or patient prescription drug history, to provide each prospective member disclosure materials describing those practices before a prospective member is enrolled in the program.

Provides for enforcement of the disclosure requirement.

Requiring Automated External Defibrillators in Nursing Homes—H.B. 392

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

In a December 2008 report, the Texas Department of State Health Services indicated that cardiovascular disease is the leading cause of death in Texas. Of those who suffer from cardiovascular disease, approximately 30 percent are over the age of 65. As the population ages and the incidence of major contributing factors to heart disease such as obesity continues to rise, it has become necessary to protect the elderly and medically fragile by providing automated external defibrillators (AEDs) in the state's nursing home facilities. Despite the ability of AEDs to save lives and decrease medical costs associated with delayed treatment, as of 2002, only four percent of Texas nursing homes had AEDs. This bill:

Requires nursing homes and related institutions to have AEDs available for use and follow specific training, use, and notification requirements.

Authorizes nursing homes and related institutions to solicit gifts, donations, or grants to purchase an AED if they lack the necessary funds.

Requires the use of an AED in the nursing home or related institution to comply with a resident's advance directive.

Requires nursing homes and related institutions to employ at least one person who is trained in the proper use of an AED.

Creation of the Lifespan Respite Services Program—H.B. 802

by Representative John Davis et al.—Senate Sponsor: Senator Zaffirini

There are approximately 2.7 million informal caregivers in Texas providing 2.9 billion hours of care per year to a family member who is disabled or elderly and otherwise might require permanent placement in a nursing home or other care facility. Respite services temporarily relieve caregivers of their duties and help to reduce the number of hospitalizations, improve the patient's overall well being, and prevent potential abuse and neglect. Such benefits save the state money by eliminating expenditures associated with Medicaid-provided services. This bill:

Requires the Department of Aging and Disability Services (DADS) to implement the lifespan respite services program to promote the provision of respite services through contracts with eligible community-based organizations or local governmental entities.

Provides that a person is eligible to participate in the program if he or she is the primary caregiver for a person who is related to the caregiver within the second degree of consanguinity or affinity, has a chronic serious health condition or disability, requires assistance with one or more activities of daily living, is not eligible for or not able to participate in any other existing program that provides respite services, and meets criteria specified in rules adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner).

Prohibits the executive commissioner from specifying criteria that limit a person's eligibility based on the type of chronic serious health condition or disability of the person receiving care.

Requires DADS to contract with at least three eligible community-based organizations or local governmental entities selected by DADS to provide respite services and facilitate access to respite services.

Provides that a community-based organization or local governmental entity is eligible to contract only if the organization or entity has experience in and an existing procedure for coordinating support services for multiple groups of persons who need support services.

Requires DADS to include in each contract with a respite services coordinator provisions requiring the coordinator to provide vouchers for respite services to caregivers participating in the program who are not eligible for such services provided through other programs, and connect caregivers participating in the program with available respite services.

Requires DADS to provide each community-based organization or local governmental entity with which DADS contracts under this subchapter with technical assistance and policy and program development support.

Requires DADS to monitor a contractor's performance under a contract entered into using clearly defined and measurable performance objectives.

Requires a respite services coordinator under contract with DADS to maintain information regarding respite services providers, build partnerships with respite services providers, and implement public awareness activities regarding respite services.

Requires the executive commissioner to adopt rules necessary to implement the lifespan respite services program.

Requires the executive commissioner, in consultation with DADS, to submit a report to the governor and the Legislative Budget Board regarding the lifespan respite services program.

Nursing Home Information on DADS Website—H.B. 1081

by Representative Herrero et al.—Senate Sponsor: Senator Nelson

Current law requires each facility licensed by the Department of Aging and Disability Services (DADS) to post a notice with information such as the facility's license, compliance history, sources of reports and inspections, legal protections and rights, and how to file complaints. The notice must be onsite and readily available to residents, employees, and visitors. This bill:

Requires DADS to post detailed compliance information regarding each institution licensed by DADS on DADS' website, which must be updated once a month to provide the most current compliance information regarding each institution.

Prohibiting Contact Between New Employee and Nursing Home Residents—H.B. 2191

by Representative Veasey et al.—Senate Sponsor: Senator Nelson

The elderly and disabled are some of the state's most vulnerable citizens and require the highest level of protection and care. Current law, however, provides exemptions that allow a new employee of a nursing facility to have direct contact with elderly and disabled residents before the nursing facility has received the results of his or her criminal background check. This bill:

Requires a facility that employs a person pending a criminal history check to ensure that the person has no direct contact with a resident until the facility obtains the person's criminal history record information and verifies the person's employability.

Delivery of Services Through Consumer Direction to Certain Persons—S.B. 1484

by Senator Watson—House Sponsor: Representative Naishtat

Current law does not permit individuals using the consumer-directed service (CDS) option, which allows consumers to make personal decisions related to the delivery of personal assistance and respite services within their current

home and community-based program, to delegate certain nursing tasks to attendants without the involvement of a nurse. This provision was mistakenly omitted from S.B. 1766, 80th Legislature, Regular Session. This bill:

Exempts from nurse licensing the delivery of a service for which payment is provided under the consumer-directed service option if the person who delivers the service and the person receiving the service meet certain requirements.

Requires the legally authorized representative to be present when the service is performed or be immediately accessible to the person who delivers the service.

Requires the representative, if the person will perform the service when the representative is not present, to observe the person performing the service at least once to assure the representative that the person performing the service can competently perform that service.

Health Infrastructure Impact of a Medicaid Program Reduction—H.B. 497

by Representative Zerwas et al.—Senate Sponsor: Senator Nelson

In October 2008, the U.S. Department of Health and Human Services (HHS) projected that spending on Medicaid benefits will increase 7.4 percent per year and that Medicaid spending will total approximately \$4.9 trillion over the next ten years. In a 2008 meeting of the National Association of State Budget Officers, HHS Secretary Mike Leavitt stated that "... the current path of Medicaid spending is unsustainable for both federal and state governments." In light of these projections, it is imperative that Texas prepare for the possibility of federal Medicaid reform and a reduction in federal Medicaid spending. This bill:

Requires the Texas Health and Human Services Commission (HHSC) and the Texas Department of Insurance (TDI) to conduct a joint study to determine the effect on the health care infrastructure in this state, including health care delivery mechanisms, if the state Medicaid program is abolished or the amount of federal matching money available to the state under the program is severely reduced.

Requires the study to address the effect on the availability of and accessibility to health care services provided under the state Medicaid program.

Requires HHSC and TDI to identify all available health care resources throughout the state, both public and private, that are not funded wholly or partly by the state Medicaid program; identify which population groups receiving services under the state Medicaid program would be most at risk of losing those services if the program was abolished or the amount of federal matching money available to the state under the program was severely reduced; and determine the effect abolishment of the state Medicaid program would have on local health care service providers and local financing mechanisms that provide or support care to individuals who cannot afford necessary health care services.

Requires HHSC and TDI to submit a report of the findings 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 having primary jurisdiction over health and human services.

Requires the report to include a statewide plan for making a transition of the provision and delivery of health care services from the state Medicaid program to a new health care delivery system and an analysis of the fiscal impact to this state of continuing to provide health care services to population groups served by the state Medicaid program if the program was abolished or the amount of federal matching money available to the state under the program was severely reduced.

Authorizes the executive commissioner of HHSC and the commissioner of insurance to adopt the transition plan as a contingency plan for transitioning recipients of health care services from the state Medicaid program to a new health care delivery system.

Expansion of the HHSC Electronic Eligibility Information Pilot Project—H.B. 583

by Representative Dukes—Senate Sponsor: Senator Deuell

Currently, individuals who apply for health and human services benefits are required to present documentation of their eligibility to both local and regional indigent care networks and to the state benefits program. H.B. 321, authored by Representative Dukes and passed by the 80th Legislature in 2007, sought to determine the feasibility of reducing the length and complexity of completing the eligibility process. The bill required the Health and Human Services Commission (HHSC) to use the electronic eligibility information from a regional indigent care collaborative system to determine the feasibility of adopting the same eligibility process at a statewide level in the future. In 2008, a study by HHSC concluded that the basic technology and operational systems are in place to process imported

electronic eligibility information from a regional indigent care provider, but that operation of the pilot program should continue to achieve further enhancements to the technology. This bill:

Requires HHSC, not later than September 1, 2010, to expand the pilot project that determines the feasibility, costs, and benefits of importing electronic eligibility information from a regional indigent care provider to at least one additional urban area of this state if HHSC has implemented the Texas Integrated Eligibility Redesign System (TIERS), the most updated electronic system used to determine eligibility for benefits, in the area selected for the expansion.

Requires HHSC to create a project in which regional indigent care networks interface with HHSC through TIERS or another state electronic eligibility system to automatically share electronic applications for indigent care created by the care network with HHSC with minimal human intervention to eliminate potential errors.

Requires HHSC to review and process applications in a timely manner and work directly with each organization to obtain missing documents, resolve issues that impede enrollment, and decrease delays in processing applications.

Requires HHSC to provide a monthly statistical report to each safety net provider collaborative organization that submits an application and to the Legislative Budget Board on the number of applications processed, the timeliness of the application process, and the reasons for any delays.

Requires HHSC to assess the cost-effectiveness, efficacy, efficiency, and benefits of using electronic eligibility information imported from electronic systems operated by regional safety net provider collaborative organizations, and to report its findings to the standing health and human services committees of the senate and house of representatives.

Realignment of Diabetic Supplies Ordering Under Medicaid—H.B. 1487

by Representatives Pitts and Guillen—Senate Sponsor: Senator Nelson

More than 250,000 Texans receiving Medicaid services have diabetes. Many of these patients require life-managing diabetic supplies; however, the process to obtain diabetic supplies in the Medicaid program is cumbersome and lengthy. Currently, a diabetic person on Medicaid must obtain a doctor's prescription for diabetic supplies, obtain additional prescription information from a supplier, and then return to the doctor to receive final approval. This bill:

Requires the Health and Human Services Commission (HHSC) to review forms and requirements under the Medicaid program regarding written orders for diabetic equipment and supplies to identify variations between the Medicaid and Medicare program procedures and then modify the forms and requirements to provide for an ordering system in Medicaid that is comparable to the ordering system in Medicare.

Requires that the ordering system permit a diabetic equipment or supplies supplier to complete the forms by hand or to enter by electronic format medical information or supply orders into any form as necessary to provide the information required to dispense diabetic equipment or supplies.

Authorizes a provider of diabetic equipment and supplies to bill and collect payment for the provider's services if the provider has a copy of the form that is signed by a medical practitioner licensed in this state to treat diabetic patients.

Eligibility for CHIP and Medicaid on Release from Certain Facilities—H.B. 1630

by Representatives Naishtat and Veasey—Senate Sponsor: Senator Watson

Texas youths who receive Children's Health Insurance Program (CHIP) and Medicaid services must be disenrolled from such services upon entering a state juvenile justice facility. When released from a justice facility, youths must reapply for CHIP and Medicaid benefits, often forcing them to experience gaps in medical coverage. This bill:

Requires the Health and Human Services Commission (HHSC) to enter into a memorandum of understanding (MOU) with the Texas Youth Commission and the Texas Juvenile Probation Commission to ensure that each individual in a juvenile justice facility is assessed by HHSC for eligibility for Medicaid and CHIP before that individual's release from commitment.

Requires that each MOU be tailored to ensure that an individual who is determined eligible by HHSC for coverage under Medicaid or CHIP is enrolled and begins receiving services through the program as soon as possible on the date of the individual's release from placement, detention, or commitment.

Authorizes the executive commissioner of HHSC to adopt rules as necessary to implement this bill.

Diabetes Self-Management Training Pilot Program Under Medicaid—H.B. 1990

by Representative McReynolds et al.—Senate Sponsor: Senator Duncan

Proper diabetes self-management requires daily ingestion of medications and a change in diet, exercise, and other long-term lifestyle habits. Those who are unable to make significant lifestyle changes often will experience additional health problems, such as amputations and heart disease. While the Texas Medicaid program covers the cost of medications, it does not cover self-management training for persons with diabetes. This bill:

Requires the Health and Human Services Commission (HHSC) to establish a pilot program to provide diabetes self-management training services to Medicaid recipients under the fee-for-service or primary care case management delivery model who are enrolled in a disease management program available to Medicaid recipients.

Requires HHSC to ensure that an assessment of a potential participant in the program is conducted, a participant is offered a minimum of 10 hours of initial self-management training with a diabetes educator and three hours of initial nutrition education with a registered dietitian, the participant is later offered each year a minimum of two hours of self-management training with a diabetes educator and two hours of nutrition education with a registered dietitian, and participants' progress is measured.

Requires HHSC to submit a report to the governor, lieutenant governor, speaker of the house of representatives, standing committees of the legislature with appropriate subject matter jurisdiction, and Texas Diabetes Council regarding the data and outcomes of the pilot program.

Medical Drug Utilization Review Program and Medicaid Preferred Drug List—H.B. 2030

by Representative Zerwas—Senate Sponsor: Senator Deuell

The Medicaid Drug Utilization Review (DUR) Program is operated by the Health and Human Services Commission (HHSC) to promote patient safety by identifying potential problems with drug therapy, such as incorrect dosages or drug interaction issues, for Medicaid recipients. The DUR program includes prospective drug use reviews and retrospective drug use reviews. Additionally, the Medicaid Preferred Drug List (PDL) determines which drugs prescribed to Medicaid recipients are clinically and cost effective. Under current law, a physician cannot know

whether a drug is not included on the PDL because of its ineffectiveness or because it lacks a manufacturer's rebate. This bill:

Requires HHSC to provide for an increase in the number and types of retrospective drug use reviews performed each year under the DUR Program.

Requires HHSC, in determining the number and types of drug use reviews to be performed, to allow for the repeat of retrospective drug use reviews that address ongoing drug therapy problems that improved client outcomes and reduced Medicaid spending and consider implementing disease-specific retrospective drug use reviews.

Requires that the cost-saving estimates for prospective drug use reviews to include savings attributed to drug use reviews performed through the vendor drug program's electronic claims processing system and clinical edits screened through the prior authorization system.

Prohibits a member of the board of the DUR Program from having a conflict of interest with a pharmaceutical manufacturer or labeler or with an entity engaged by HHSC to assist in the administration of the DUR Program.

Requires HHSC to monitor and analyze prescription drug use and expenditure patterns in the Medicaid program.

Authorizes that the PDLs contain a drug provided by a manufacturer or labeler that has not reached a supplemental rebate agreement with HHSC if HHSC determines that inclusion of the drug on the PDLs will have no negative cost impact to the state or a drug provided by a manufacturer or labeler that has reached an agreement with HHSC to provide program benefits in lieu of supplemental rebates.

Requires HHSC to provide an automated process that may be used to assess a Medicaid recipient's medical and drug claim history to determine whether the recipient's medical condition satisfies the criteria for dispensing a drug without an additional prior authorization request and study the costs and benefits of the prior authorization process and methods to improve efficiency.

Requires HHSC to meet in public and permit public comment before voting on any changes in the PDLs.

Requires HHSC to publicly disclose each specific drug recommended for or against PDL status for each drug class included in the PDL for the Medicaid vendor drug program.

Requires HHSC to publish on HHSC's Internet website any decisions regarding PDL placement.

Requires HHSC to adopt rules to implement this bill.

Study of the Distribution of Certain Drugs to Children Under Medicaid—H.B. 2163

by Representative Sylvester Turner et al.—Senate Sponsor: Senator Uresti

Psychotropic medications must receive approval by the Federal Drug Administration (FDA) prior to distribution and use. Off-label drug use refers to the use of a drug for a specific problem or group that has not been FDA approved. Oftentimes, children are the recipients of strong psychotropic medications with risky side effects that were approved for adult use only. This bill:

Requires the Health and Human Services Commission (HHSC) to conduct a study, to be submitted to the lieutenant governor, the speaker of the house of representatives, and the chairs of the health and human services-related committees, to determine the appropriateness and safety of providing antipsychotic or neuroleptic medication through the Medicaid vendor drug program to children younger than 16 years of age.

Requires that the study consider several factors relevant to the appropriateness and safety of providing the medications to children, including the physical and psychological medical diagnosis of a child's condition, whether the FDA has approved a medication for use by a child of a certain age; whether a child has successfully taken a medication previously; access to quality medical care for a child receiving benefits under the program; the standard of care in the medical profession regarding the provision of such medications to a child; and any other factor HHSC considers relevant.

Enrollment of Newborns in the Medicaid Managed Care Plans—H.B. 3231

by Representatives John Davis and Guillen—Senate Sponsor: Senator Nelson

The Texas Medicaid managed care program, which first began in 1993 and has since expanded to include 2.5 million persons, allows participants to choose a primary care provider from a specified network to direct their care. The 76th Legislature, Regular Session, 1993, required the Health and Human Services Commission (HHSC) to expedite Medicaid managed care services provided to newborns. The purpose of this bill is to clarify legislative intent regarding the expedition of payments made to those who provide health care to newborns under the Medicaid managed care program. This bill:

Deletes existing text requiring HHSC to temporarily assign Medicaid-eligible newborn infants to the traditional fee-for-service component of the state Medicaid program for a period not to exceed the earlier of 60 days or the date on which the Texas Department of Human Services has completed the newborn's Medicaid eligibility determination.

Medicaid Buy-In Program for Children With Disabilities—S.B. 187

by Senator Deuell et al.—House Sponsor: Representative Lucio III

Current state law allows children in families with an adjusted annual income that is below a certain amount based on the child's age to receive Medicaid benefits. The federal Deficit Reduction Act (DRA) of 2005 authorized families with severely disabled children and adjusted annual incomes of up to 300 percent of the federal poverty level to "buy-in" to the Medicaid program. Children in such families receive full Medicaid coverage if parents pay monthly premiums determined by their income. The "buy-in" program allows families whose incomes are too high to qualify them for Medicaid coverage but too low to allow them to provide care for their severely disabled children. This bill:

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to develop and implement, as authorized by the DRA of 2005, a Medicaid buy-in program for disabled children whose family incomes do not exceed 300 percent of the federal poverty level.

Requires the executive commissioner to adopt rules that provide for eligibility requirements for each program and requirements for participants in the program to pay premiums or cost-sharing payments according to a sliding scale that is based on family income.

Medical Assistance Program and Billing Coordination System for Medicaid—S.B. 531

by Senator Dan Patrick et al.—House Sponsor: Representative Zerwas

Texas spent approximately \$2.5 billion on Medicaid in 2007. To reduce unnecessary spending, the 80th Legislature, Regular Session, enacted S.B. 10 to establish a billing coordination system that identifies when Medicaid should and should not pay for claims on acute care. The purpose of this bill is to expand the billing coordination system and improve the quality and efficiency of medical assistance through Medicaid. This bill:

Requires the Health and Human Services Commission (HHSC) to contract to expand the Medicaid billing coordination system to process claims for all other health care services provided through the Medicaid program.

Requires the executive commissioner of HHSC (executive commissioner) to establish reporting requirements for any entity that may have a contractual responsibility to pay for the types of services that are provided under the Medicaid program and the claims for which are processed by the system.

Requires a third-party health insurer to provide to HHSC information necessary to determine the period during which an individual entitled to medical assistance under the medical assistance program may be covered by coverage issued by the health insurer; the nature of the coverage; and the name, address, and identifying number of the health plan under which the person may be covered.

Requires a third-party health insurer to accept the state's right of recovery and the assignment to the state of any right of an individual or other entity to payment from the third-party health insurer for an item or service for which payment was made under the medical assistance program.

Prohibits a third-party health insurer from denying a claim submitted by HHSC or HHSC's designee for which payment was made under the medical assistance program under certain conditions.

Requires HHSC to provide medical assistance reimbursement to a pharmacist who is licensed to practice pharmacy in this state, is authorized to administer immunizations, and administers an immunization to a recipient of medical assistance to the same extent HHSC provides reimbursement to a physician or other health care provider participating in the medical assistance program for the administration of that immunization.

Long-Term Care Consumer Information and Medicaid Waiver Programs—S.B. 705

by Senator Nelson—House Sponsor: Representative Naishtat

Medicaid 1915(c) waiver programs allow Texas to provide long-term care to a person with disabilities in the person's home or in the community instead of in an institutional setting. The Department of Aging and Disability Services (DADS) manages seven Section 1915(c) waiver programs, including the Consolidated Waiver program, which is no longer needed because of expansion in other Medicaid programs. This bill:

Requires DADS, in consultation with the Health and Human Services Commission (HHSC), to streamline the administration of and delivery of services through Section 1915(c) waiver programs.

Requires HHSC to regularly consult with and obtain input from certain individuals, providers, groups, and other entities regarding Section 1915(c) waiver programs.

Requires that the HHSC and DADS Internet sites include information for consumers concerning long-term care services.

Repeals provisions of the Government Code relating to a pilot program for consolidating home-based and community-based services waiver programs.

Requires DADS to transfer the person's enrollment, without any break in service, from the consolidated waiver program to an appropriate program for which the person is eligible.

Reimbursement for Certain Services Under the Vendor Drug Program—S.B. 1645

by Senator Van de Putte—House Sponsor: Representative Hopson

Specialty pharmacies provide complex services for high-cost drug therapies that most physician offices cannot provide due to the lack of administrative resources. Changes made in 2007 to the Vendor Drug Program (program)

dispensing fee formula reduced the reimbursement levels so that specialty pharmacy costs for certain drugs and adherence services are no longer covered. This bill:

Requires the Health and Human Services Commission (HHSC) to study the feasibility of establishing separate reimbursement rates under the Medicaid vendor drug program for pharmacies that provide pharmacy care management services to patients who are administered specialty pharmacy drugs.

Requires HHSC to consult with the Centers for Medicare and Medicaid Services and seek information from specialty pharmacy providers or other sources regarding the costs of providing pharmacy care management services.

Authorizes HHSC to consider adoption of pharmacy care management services reimbursement for pharmacy services adopted by other state Medicaid programs.

Requires HHSC to submit a report of the results of the study to the legislature.

Provides that a state agency or a political subdivision of this state that distributes prescription drugs using federal or state funding to nonprofit health care facilities or local mental health or mental retardation authorities for distribution to a pharmacy, practitioner, or patient is exempt from Sections 431.405(b) (relating to requirements the designated representative of an applicant or license holder must meet in order to qualify for the issuance or renewal of a wholesale distributor license), 431.407 (Criminal History Record Information), 431.408 (Bond), 431.412 (Pedigree Required), and 431.413 (Pedigree Contents), Health and Safety Code.

Authorizes the executive commissioner of HHSC (executive commissioner) by rule to exempt specific purchases of prescriptions drugs by state agencies and political subdivisions of this state if it is determined that the requirements would result in a substantial cost to the state.

Requires the executive commissioner to adopt, modify, or repeal rules to implement the bill.

Medical Assistance Reimbursement for Wheeled Mobility Systems—S.B. 1804

by Senator Zaffirini—House Sponsor: Representative Hughes

Children and adults with severe and long-term disabilities who lack mobility require a wheelchair that has been properly designed and fitted by a professional. Wheelchair mobility devices that are not fitted to the person may cause orthopedic deformities and reduce postural support. Ill-fitting wheelchairs can also lead to skin ulcers and breathing problems and must be replaced frequently, resulting in additional expenses. This bill:

Authorizes the Health and Human Services Commission (HHSC) or an agency operating part of the medical assistance program to provide medical assistance reimbursement for the provision of, or the performance of a major modification to, a wheeled mobility system if certain conditions are met.

Requires the executive commissioner of HHSC to adopt rules required by the bill.

Medicaid Program Reimbursement for Certain Guardianship Expenses—S.B. 2435

by Senator Uresti—House Sponsor: Representative Naishtat

The state-administered Medicaid program allows certain recipients to receive medical assistance that is paid to a nursing home. In determining the amount of medical assistance paid by the state to a nursing home, an adjustment is made for the "applied income" that is earned and unearned by the recipient, or if applicable, the recipient and the recipient's spouse. Current Texas statutes and administrative rules related to Medicaid allow for guardian fees to be

deducted from the amount of "applied income." The amount of the deduction for guardian fees is currently set by the court. This deduction for guardian fees results in a lower "applied income" amount, which increases the amount of medical assistance paid for by the Medicaid program to a nursing home. Many states limit this deduction from applied income. This bill:

Requires the:

- Health and Human Services Commission (HHSC), to the extent allowed by federal law, to provide medical assistance reimbursement for compensation and costs ordered under the Texas Probate Code, in a guardianship established for a medical assistance recipient.
- HHSC executive commissioner to adopt rules providing a procedure by which a guardian may submit a claim for reimbursement from the medical assistance program.

Defines "applied income" and "medical assistance."

Authorizes a court appointing a guardian for a recipient of medical assistance who has applied income, to the extent permitted by federal law, to order the following to be paid under the medical assistance program:

- compensation to the guardian in an amount not to exceed \$175 per month;
- costs directly related to establishing or terminating the guardianship, not to exceed \$1,000. Costs may include compensation and expenses for an attorney ad litem or guardian ad litem and reasonable attorney's fees for an attorney representing the guardian. The costs may exceed \$1,000 if the costs in excess of that amount are supported by documentation acceptable to the court and the costs are approved by the court; and
- other administrative costs related to the guardianship, not to exceed \$1,000 during any three-year period.

Services Provided to Persons With Developmental Disabilities—H.B. 748

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

Texans with developmental or mental disabilities can receive services through a variety of sources, such as state schools, state hospitals, regional mental health and mental retardation (MHMR) centers, or private providers. However, current law separates the regulation of services provided for mental illnesses and developmental disabilities, making it difficult for individuals in the community with developmental disabilities or with a dual diagnosis of developmental disabilities and mental illness to access certain services provided in the state schools. This bill:

Authorizes a person who provides disability services to contract with a state school or state center for the school or center to provide services and resources to support individuals with developmental disabilities, including individuals with dual diagnosis disorders.

Authorizes a state school or state center to provide nonresidential services to support an individual if he or she is receiving services in a program funded by the Department of Aging and Disability Services, meets the eligibility criteria for the intermediate care facility for persons with mental retardation program, and resides in the area in which the state school or state center is located, and if the provision of services to the individual does not interfere with the provision of services to a resident of the state school or state center.

Detention of Persons Accepted for a Preliminary Mental Health Evaluation—H.B. 888

by Representative Naishtat—Senate Sponsor: Senator Uresti

Currently, a peace officer is authorized to detain a person who poses a serious threat to the safety of the person or others because of his or her mental illness and transport the person to a mental health facility for evaluation and treatment. The detained person is required to remain in the mental health facility for the initial evaluation for no longer than 48 hours. However, if the person is taken into custody on the weekend or at the end of the week when a physician is not available to complete the evaluation, then the person is required to remain at the facility until 12 p.m. on the first business day or 4 p.m. on the day the 48-hour period ends. This bill:

Authorizes the person, if the 48-hour period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day, to be detained until 4 p.m. on the first succeeding business day.

Property Transfer to Spindletop MHMR Services—H.B. 1023

by Representative Deshotel—Senate Sponsor: Senator Williams

Currently, patients at the former Beaumont State Center (center) can only receive health care services related to mental health and mental retardation. Patients requiring physical health care services cannot receive such services from the center. This bill:

Requires that Spindletop Mental Health and Mental Retardation (MHMR) Services use the center property in a manner that primarily promotes a public purpose of the state by using the property to provide community-based physical health, health-related, mental health, or mental retardation services.

Establishing a Local Behavioral Health Intervention Pilot Project—H.B. 1232

by Representative Menendez—Senate Sponsor: Senator Van de Putte

Current law allows but does not require collaboration between state agencies that oversee local treatment agencies that provide behavioral health services to children. State agencies and local treatment agencies, particularly in Bexar

County, oftentimes do not share information about the children and adolescents they serve, which can result in the duplication of assessments, treatment modalities, and case management; decrease the effectiveness of treatment; and lead to increased placements in alternative settings. This bill:

Requires the Department of State Health Services (DSHS) to establish a local behavioral health intervention pilot project for children in Bexar County.

Requires DSHS to require a local mental health authority serving Bexar County to enter into an agreement with state and local agencies that work directly with children to permit collaboration in the provision of uniform early intervention behavioral health services to children; identify children, with written consent from parents or guardians, who are at risk of placement in an alternative setting for behavior management or intervention by the juvenile justice or child protective services systems; and with written consent from parents or guardians, divert such children system of care services to reduce gaps or inefficiencies in the provision of care.

Requires DSHS to require a local mental health authority serving Bexar County to develop, in collaboration with the state and local agencies, a best practices plan regarding informed consent and confidentiality practices; uniform behavioral health screening for children; uniform referral processes between systems and agencies related to behavioral health services; the delivery of early intervention and treatment services; and an information exchange process between agencies to facilitate faster identification and assessment of behavioral health problems and integrate service delivery.

Authorizes a local mental health authority serving Bexar County, DSHS, Department of Family Protective Services, Texas Youth Commission, Texas Education Agency, and local school districts, with the consent of the child's parents or guardians, to disclose certain information relating to a child if the disclosure serves a purpose of the pilot project and accept information relating to a child that serves a purpose of the pilot project, regardless of whether other state law makes that information confidential.

Requires the local mental health authority involved in the pilot project to submit a report to DSHS regarding the local behavioral health intervention pilot project.

Transfer of Property to Certain Mental Health and Mental Retardation Centers—H.B. 2039

by Representative Truitt—Senate Sponsor: Senator Uresti

Beginning in 1987, Texas bought 42 properties to provide community-based facilities services to people with developmental disabilities. These facilities are now operated and managed by 10 community mental health and mental retardation (MHMR) centers throughout the state. Although MHMR centers do not own these properties, they do manage and pay the properties' bond debt. This bill:

Requires Department of Aging and Disability Services DADS to transfer certain properties to: Anderson Cherokee Community Enrichment Services d/b/a ACCESS; Border Region MHMR Community Center; Bexar County Board of Trustees for MHMR Services d/b/a The Center for Health Care Services; Heart of Texas Region MHMR Center; Hill Country Community MHMR Center; Lakes Regional MHMR Center; MHMR of Tarrant County; Texana Center; Texas Panhandle MHMR; and West Texas Centers for MHMR.

Services Received from Community Centers—H.B. 2303

by Representative Truitt et al.—Senate Sponsor: Senator Uresti

A developmental disability is defined as a lifelong mental or physical disability that prevents a person from completing daily tasks without assistive services. Currently, mental health and mental retardation (MHMR) centers contract with

local community entities to provide services to Texans with a mental illness, mental retardation, or substance abuse. However, current law does not clearly authorize MHMR centers to provide services to persons with developmental disabilities. Additionally, reorganization of state health and human services in 2003 has made the MHMR center plan approval process more difficult and time consuming. This bill:

Authorizes a community MHMR center to operate only for the purposes and perform only the functions defined in the MHMR center's plan and provide other health and human services and supports as provided by a contract with or a grant received from a local, state, or federal agency.

Requires the executive commissioner of the Health and Human Services Commission by rule to specify the elements that are required to be included in the plan and to prescribe the procedure for submitting, approving, and modifying a MHMR center's plan.

Provides that it is the policy of this state that MHMR centers strive to develop services for persons who are mentally ill or mentally retarded, and are authorized to provide requested services to persons with developmental disabilities or with chemical dependencies that are effective alternatives to treatment in a large residential facility.

Transportation Plans for Persons Discharged from Mental Health Facilities—H.B. 4276

by Representative Menendez et al.—Senate Sponsor: Senators Uresti and Zaffirini

Current law authorizes a mental health facility to discharge a patient without notifying the patient's family and ensuring that the patient is safely transported from the facility to his or her residence. A mental health facility is only required to ensure that a patient reaches a mode of transportation. This bill:

Requires the facility administrator of a mental health facility, in conjunction with the local mental health authority, to create a transportation plan for a person scheduled to be furloughed or discharged from the facility.

Requires that the transportation plan account for the capacity of the person, be in writing, and specify who is responsible for transporting the person, when the person will be transported, and where the person will arrive.

Requires the facility administrator, if the person consents, to forward the transportation plan to a family member of the person before the person is transported.

Hill Country Mental Health Authority Crisis Stabilization Unit—S.B. 1054

by Senator Uresti—House Sponsor: Representative Hilderbran

The Hill Country Community Mental Health and Mental Retardation (MHMR) Center (Hill Country) is recognized as the local mental health authority for a 19-county service area in central Texas. In 2007, the 80th Legislature, Regular Session, enacted H.B. 654 to create a pilot project directing Hill Country to open a 16-bed crisis stabilization unit on the grounds of the Kerrville State Hospital. The pilot project was to expire on September 1, 2009. This bill:

Requires the Department of State Health Services (DSHS) to contract with the local mental health authority serving the Hill Country area, including Kerr County, to operate a crisis stabilization unit on the grounds of the Kerrville State Hospital (hospital).

Requires DSHS to include provisions in the contract requiring the local mental health authority to ensure that the crisis stabilization unit provides short-term residential treatment designed to reduce a patient's acute symptoms of mental illness and prevent a patient's admission to an inpatient mental health facility.

Deletes existing text that requires the local mental health authority to contract with the hospital to provide equipment rental to the crisis stabilization unit.

Deletes existing text authorizing the local mental health authority to contract with the hospital to provide pharmaceutical services for the crisis stabilization unit.

Authorizes DSHS to allocate additional funds appropriated to DSHS for state hospitals to the crisis stabilization unit.

Repeals Section 551.009(g), Health and Safety Code, requiring DSHS to submit a report to certain legislators and Section 551.009(h), Health and Safety Code, providing that the crisis stabilization unit pilot project is set to expire.

Extending Jurisdiction for Youth “Aging Out” of Foster Care Services—H.B. 704

by Representative Rose—Senate Sponsor: Senator Nelson

Children are placed into foster care homes when they can no longer live in their family homes and do not have relatives or close friends with whom they can live. Under state conservatorship, children in foster care receive guidance and support so that they develop in secure and nurturing settings. Although foster care placement is meant to be temporary, some children remain in foster care throughout their childhood until age 18 when they “age out” of the foster care system and are no longer under the court’s managing jurisdiction. This bill:

Authorizes a court that had continuing, exclusive jurisdiction over a young adult, persons ages 18 to 21, at the young adult’s request, to render an order that extends the court’s jurisdiction over the young adult.

Provides that the extended jurisdiction of the court terminates on the young adult’s 21st birthday, or the date the young adult withdraws consent to the extension of the court’s jurisdiction.

Authorizes the court, if the court believes that a young adult is incapacitated, to extend its jurisdiction on its own motion without the young adult’s consent to allow the Department of Family and Protective Services (DFPS) to refer the young adult to the Department of Aging and Disability Services (DADS) for guardianship.

Provides that the extended jurisdiction of the court for an incapacitated young adult terminates on the earliest of the date DADS determines guardianship is not appropriate, a court with probate jurisdiction denies the application to appoint a guardian, or a guardian is appointed and qualifies under the Texas Probate Code.

Authorizes the court, if DADS determines a guardianship is not appropriate or the court with probate jurisdiction denies the application to appoint a guardian, to continue to extend its jurisdiction over the young adult.

Authorizes a guardian appointed for a young adult to request that the court extend the court’s jurisdiction over the young adult.

Prohibits a court that extends its jurisdiction over a young adult for whom a guardian is appointed from issuing an order that conflicts with an order entered by the probate court that has jurisdiction over the guardianship proceeding.

Authorizes a court with extended jurisdiction to continue or renew the appointment of an attorney ad litem, guardian ad litem, or volunteer advocate for the young adult to assist the young adult in accessing services the young adult is entitled to receive from DADS or any other public or private service provider.

Prohibits the court from appointing DFPS or DADS as the managing conservator or guardian of a young adult.

Prohibits the court from ordering DFPS to provide a service to a young adult unless DFPS is authorized to provide the service under state law, and is appropriated money to provide the service in an amount sufficient to comply with the court order and DFPS’s obligations to other young adults.

Provides that a young adult who consents to the continued jurisdiction of the court has the same rights as any other adult of the same age.

Authorizes the court, if the court’s jurisdiction is extended under this subchapter for a young adult who remains in foster care, to hold periodic hearings to review services provided to the young adult.

Authorizes the court, if the court believes that the young adult is entitled to additional services under DFPS rules or policies or under a contract with a service provider, to order DFPS to take appropriate action to ensure that the young adult receives the additional services to which the young adult is entitled.

Programs Related to Helping Foster Children Transition to Adulthood—H.B. 1912

by Representative Rodriguez et al.—Senate Sponsor: Senator Van de Putte

Youth who age out of the Texas foster care system and experience independent living as adults often face many challenges. These Texans must adjust to living without adult guidance and learn how to complete routine grown-up tasks, such as managing finances and grocery shopping. The Department of Family and Protective Services (DFPS) currently operates Preparation for Adult Living (PAL) to assist youths during the transition period. However, because of the many difficulties associated with leaving the foster care system and entering adulthood, transitioning youth need additional services and support. This bill:

Requires DFPS to expand efforts to improve transition planning and increase the availability of transitional family group decision-making to all youth age 14, rather than age 16, or older in DFPS's permanent managing conservatorship, including enrolling the youth in PAL before the age of 16.

Requires DFPS to require a foster care provider to provide to or assist youth who are age 14 or older in obtaining experiential life-skills training to improve their transition to independent living.

Requires DFPS to allow a youth who is at least 18 years of age to receive transitional living services, other than foster care benefits, while residing with a person who was previously designated as a perpetrator of abuse or neglect if DFPS determines that despite the person's prior history the person does not pose a threat to the health and safety of the youth.

Requires DFPS to ensure that each youth acquires a certified copy of his or her birth certificate, a Social Security card or replacement Social Security card, and a personal identification certificate on or before the date the youth turns 16 years of age.

Requires DFPS to require a person to provide or assist youth in obtaining housing services; job training and employment services; college preparation services; services that will assist youth in obtaining a general education development certificate; and any other appropriate transitional living service.

Requires DFPS, to achieve the best possible outcomes for foster care youth transitioning to independent living, to take certain actions, including examining best practices, establishing a transitional living services workgroup, and developing a plan to improve the Transitional Living Services Program.

Review of the Permanent Placement Process for Foster Children—H.B. 2225

by Representative Parker et al.—Senate Sponsor: Senator Nelson

It is imperative that children in foster care receive permanent placements in homes to improve their chances of success. Research shows that 40 percent of children who turn 18 without having received permanent placement drop out of high school and that many will live in poverty and become involved in criminal activity. This bill:

Requires the Department of Family and Protective Services (DFPS), in conjunction with the adoption review committee, to conduct an extensive review of the foster care system to identify obstacles that impede DFPS's ability to find a permanent placement for foster children, including placement by adoption, and develop certain ways to improve the foster care system.

Requires DFPS to submit a report of the review to the governor, the lieutenant governor, the speaker of the house of representatives, and the health and human services-related legislative committees.

Referral and Determination of Guardianship for Elderly or Disabled Persons—H.B. 3112

by Representative Harnett—Senate Sponsor: Senator Nelson

A guardian is a person or entity appointed by a court to make decisions on behalf of an adult who, because of a physical or mental condition, cannot provide himself or herself with food and shelter and cannot manage his or her health and finances. The guardianship program is managed by the Department of Aging and Disability Services (DADS). This bill:

Requires DADS to conduct a thorough assessment of the conditions and circumstances of an elderly or disabled person referred to DADS for guardianship services to determine whether a guardianship is appropriate for the individual or whether a less restrictive alternative is available for the individual.

Provides that if after conducting an assessment of an elderly or disabled person, DADS determines that guardianship is appropriate for that person, then DADS is required to file an application for guardianship or refer the person to an alternative guardianship program or, if a less restrictive alternative is available, pursue such alternative.

Requires DADS, not later than the 70th day after the date DADS receives a referral for guardianship services, to make the determination and, if DADS determines that guardianship is appropriate and that DADS should serve as guardian, file the application to be appointed guardian.

Requires DADS, if DADS determines that an alternative person or program is available to serve as guardian, to refer the elderly or disabled person to that person or program in a manner that would allow the person or program sufficient time to file, not later than the 70th day after the date DADS received the referral, an application to be appointed guardian.

Authorizes DADS, with the approval of the Department of Family and Protective Services, to extend the determination and filing process by not more than 30 days.

Statement Regarding Rights and Responsibilities of Foster Parents—H.B. 3137

by Representative Gallego—Senate Sponsor: Senator Nelson

Children who must be removed from their homes due to abuse and neglect are often placed with a foster family. Foster parents provide stable environments and invest significant amounts of time and income in the lives of their foster children. This bill:

Requires the Department of Family and Protective Services (DFPS) to develop a statement that lists the rights and responsibilities of a foster parent in a foster home or an agency foster home and of DFPS or a child-placing agency.

Requires DFPS to provide a written copy of the statement to each foster parent in a foster home and to each child-placing agency licensed by DFPS.

Requires a child-placing agency to provide a written copy of the statement to each foster parent in an agency foster home verified by the child-placing agency.

Volunteer Advocate Program for Elderly Persons—H.B. 4154

by Representative Rose et al.—Senate Sponsor: Senators Nelson and Zaffirini

The Texas Court-Appointed Special Advocates (CASA) program was created in 1993 to provide personal advocacy for abused and neglected children. The CASA program is very successful and has expanded to the extent that one

of every two foster children in Texas has a CASA. Elderly persons are also in need of advocates, especially as a large portion of the Texas population ages and many do not have family members or friends to act as advocates. The purpose of this bill is to create an advocate program, similar to CASA for children, to help elderly persons navigate the many services provided by government and nonprofits. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) (executive commissioner) to coordinate with the advisory committee established by the bill to develop a volunteer advocate program for the elderly receiving services under the direction of HHSC or a health and human services agency.

Authorizes the executive commissioner to enter into agreements with appropriate nonprofit organizations for the provision of services under the program and adopt rules to implement the program.

Requires HHSC to fund the program, including the design and evaluation of pilot projects, development of the volunteer advocate curriculum, and training of volunteers, through existing appropriations to HHSC.

Authorizes HHSC to accept gift, grants, or donations for the program from any public or private source to develop and implement the program.

Requires the executive commissioner to appoint an advisory committee composed of certain members that must advise the executive commissioner on the development of the volunteer advocate program for the elderly, including reviewing and commenting on the program design and selection of any pilot sites, the volunteer training curriculum, and requirements for periodic reports to the elderly individual and providers of health care or other services.

Requires the advisory committee to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and health and human services-related legislative committees on the advisory committee's activities, findings, and recommendations.

Protection of Individuals With Mental Retardation and Disabilities—S.B. 643

by Senator Nelson et al.—House Sponsor: Representative Rose et al.

Eligible persons with disabilities can receive services from state schools and centers, private intermediate care facilities for the mentally retarded (ICF-MRs), community mental health and mental retardation (MHMR) centers, or community homes funded by the Home and Community-based Services (HCS) waiver and other Medicaid waivers. An investigation conducted by the United States Department of Justice beginning in 2005 uncovered violations of residents' rights in state schools and centers. The purpose of this bill is to protect the safety and rights of persons with intellectual and developmental disabilities in state schools and centers and all other facilities. This bill:

Requires a school district to provide educational services to each alleged offender resident who meets certain requirements and to determine the resident's educational placement consistent with federal law and regulations regarding the placement of students with disabilities in the least restrictive environment.

Requires a behavior support specialist to, among other things, conduct for each alleged offender resident a functional behavioral assessment, ensure that each such resident is provided behavior management services under a school behavioral intervention plan, communicate and coordinate with the resident's interdisciplinary team, and remain involved with the resident during the school day.

Requires a behavior support specialist, in the case of an alleged offender resident who regresses, to ensure that necessary corrective action is taken in the resident's individualized education program or school behavioral intervention plan.

Authorizes the district or center, if a school district in which alleged offender residents are enrolled in school and the forensic state supported living center fail to agree on the services required for such residents, to refer the issue in disagreement to the commissioner of education and the commissioner of the Department of Aging and Disability Services (DADS).

Entitles each district in which alleged offender residents attend school to an annual allotment of \$5,100 for each such resident in average daily attendance.

Requires the Department of Family and Protective Services (DFPS), if a report relates to a child with mental retardation receiving services in a state supported living center or the ICF-MR component of the Rio Grande State Center, to proceed with the investigation of the report and within one hour of receiving the report, notify the facility in which the child is receiving the services of the allegations in the report.

Provides that an offense is a Class A, rather than B, misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the child was a person with mental retardation who resided in a state supported living center, the ICF-MF component of the Rio Grande State Center, or a facility licensed under Chapter 252 (Intermediate Care Facilities for the Mentally Retarded), Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect.

Requires DFPS to investigate a report of abuse, neglect, or exploitation of a child receiving certain services from a provider of home and community-based services who contracts with DADS or in a licensed facility.

Requires the caseworker, if during the course of DFPS' investigation of reported abuse, neglect, or exploitation a caseworker of DFPS or the caseworker's supervisor has cause to believe that a child with mental retardation has been abused, neglected, or exploited by another person, to immediately notify the Health and Human Services Commission (HHSC).

Entitles the Department of State Health Services (DSHS) and DADS to obtain criminal history record information from the Department of Public Safety of the State of Texas (DPS) and the Federal Bureau of Investigation that relates to a person who is an applicant for employment and would be in direct contact with residents of a state supported living center or the ICF-MR component of the Rio Grande State Center.

Requires the executive commissioner of HHSC (executive commissioner) to establish an independent mortality review system to review the death of a person with a developmental disability who received services from an ICF-MR licensed by DADS or other certain centers providing services.

Provides that a person is not eligible for a license or to renew a license if the applicant, a controlling person with respect to the applicant, or an administrator or chief financial officer of the applicant has been convicted of an offense that would bar a person's employment at a facility.

Requires a person who has cause to believe that a resident has been subjected to abuse, neglect, or exploitation to report it to DFPS for investigation.

Requires DSHS, if DSHS receives a report of suspected abuse, neglect, or exploitation of a resident of a licensed facility, to immediately refer the report to DFPS for investigation.

Deletes existing text relating to requiring DSHS to take certain actions after receiving certain reports, relating to the primary purpose of the investigation, relating to the requirements of DSHS to determine certain information in the investigation, relating to authorizing the investigation to include certain visits if considered appropriate by DSHS, relating to requiring certain courts to order certain persons to allow admission for the investigation an any interview

with the resident, and relating to requiring DSHS to make a written report of the investigation and submit the report to certain persons.

Provides that a reference in law to a "state school" means a state-supported living center.

Provides that the director of a state-supported living center is the administrative head of the center and is required to perform certain duties.

Authorizes the director of a state-supported living center to establish policy to govern the center that the director considers will best promote the residents' interest and welfare; hire subordinate officers, teachers, and other employees and set their salaries; and dismiss a subordinate officer, teacher, or employee for a good cause.

Requires DADS to designate the Mexia State Supported Living Center for the purpose of providing care apart from other clients and residents of high-risk alleged offender residents.

Authorizes an alleged offender resident committed to the forensic state-supported living center, who is not classified as high-risk, to request a transfer to another center.

Requires DADS to collect data regarding the commitment of alleged offender residents to state-supported living centers and annually submit a report to certain governmental entities.

Requires an interdisciplinary team, if the resident is classified as a high-risk alleged offender resident, to annually determine whether the alleged offender resident is at risk of inflicting substantial physical harm to another and should be classified or remain classified as a high-risk alleged offender resident.

Entitles a high-risk alleged offender resident who is determined to be at risk of inflicting substantial physical harm to another to an administrative hearing with DADS to contest that determination and classification and bring a suit to appeal the determination and classification in district court in Travis County.

Requires the executive commissioner to adopt a policy regarding random testing and reasonable suspicion testing for the illegal use of drugs by a center employee.

Requires that the policy provide that a center employee is authorized to be terminated solely on the basis of a single positive test for illegal use of a controlled substance and establish an appeals process for a center employee who tests positively for illegal use of a controlled substance.

Requires the executive commissioner to adopt a policy requiring an employee of a center employee who knows or reasonably suspects that another employee of the center is illegally using a controlled substance to report that knowledge or reasonable suspicion to the director of the state supported living center.

Requires that before a center employee begins to perform the employee's duties without direct supervision, DADS provide the employee with competency training and a course of instruction about the general duties of a center employee.

Requires DADS to install and operate video surveillance equipment in a center, except in a private space, for the purpose of detecting and preventing the exploitation or abuse of residents and clients.

Provides that the office of independent ombudsman (office) is established to investigate, evaluate, and secure the rights of residents and clients of state supported living centers and the ICF-MR component of the Rio Grade State Center.

Requires the governor to appoint the independent ombudsman.

Requires the office to submit a biannual report to certain governmental entities.

Requires the office, among other things, to evaluate the process by which a center investigates, reviews, and reports an injury to a resident or client or an unusual incident; evaluate the delivery of services to residents and clients to ensure that the rights of residents and clients are fully observed; refer complaints to certain state agencies; and conduct investigations of certain complaints.

Requires the office to establish a permanent, toll-free number for the purpose of receiving any information concerning the violation of a right of a resident or client.

Requires the inspector general to employ and commission peace officers to assist a state or local law enforcement agency in the investigation of an alleged criminal offense involving a resident or client of a center.

Requires a person having cause to believe that an elderly or disabled person is in the state of abuse, neglect, or exploitation to report the information immediately to DFPS.

Requires DFPS to receive and requires DFPS to investigate reports of the abuse, neglect, or exploitation of an individual with a disability receiving certain services.

Requires the commissioner of aging and disability services to employ an assistant commissioner to supervise the operation of the state supported living centers and coordinate with the appropriate staff of DSHS to ensure that the ICF-MR component of the Rio Grande State Center implements and enforces state law and rules that apply to the operation of state supported living centers.

Requires DADS, at least every 12 months, to conduct an unannounced on-site survey in each group home, other than a foster home, at which a Home and Community-based Services (HCS) provider provides services.

Requires DADS to develop and maintain an electronic database to collect and analyze information regarding the investigation and prevention of abuse, neglect, and exploitation of certain individuals with mental retardation.

Provides that a certain offense is a felony of the third degree when the conduct is committed intentionally or knowingly and the actor is an employee of the center or facility whose employment involved providing direct care for the victim.

Establishes the Interim Select Committee on Criminal Commitments of Individuals with Mental Retardation (committee) to study the criminal commitment process for individuals with mental retardation who are found incompetent to stand trial or are acquitted by reason of insanity.

Requires that the committee's study include an analysis of certain information.

Authorizes the commissioner of education and the executive commissioner to adopt rules to implement this bill.

Repeals Sections 252.123 (Contents of Report), 252.124 (Anonymous Reports of Abuse or Neglect), 252.127 (Immunity), 252.128 (Privileged Communications), 252.129 (Central Registry), 252.130 (Failure to Report: Criminal Penalty), and 252.131 (Bad Faith, Malicious, or Reckless Reporting; Criminal Penalty) of the Health and Safety Code.

Repeals Subsection (c) (relating to a facility licensed under Chapter 252, Health and Safety code not being subject to Chapter 48, Human Resources Code), Section 5, Chapter 693 (S.B. 1248), Acts of the 75th Legislature, Regular Session, 1997.

Provision of Birth Certificates of Certain Children Placed for Adoption—S.B. 703

by Senators Nelson and Uresti—House Sponsor: Representative Rose

When a child in state conservatorship is placed for adoption, the Department of Family and Protective Services (DFPS) requests the child's certified birth certificate from the Department of State Health Services (DSHS) and transfers funds to cover the cost of providing that information through an interagency transfer process. The process sometimes delays the adoption of children in state conservatorship. This bill:

Prohibits DSHS from collecting a fee for verification of birth information or provision of a certified copy of the birth record for a child in the managing conservatorship of DFPS if parental rights to the child have been terminated and the child is eligible for adoption.

Requires DSHS, not later than the 30th business day after the date DSHS receives an amending certificate, to notify the individual of whether the amendment has been accepted for filing.

Providing Documents and Training to Children in State Conservatorship—S.B. 983

by Senator Wendy Davis et al.—House Sponsor: Representative Rose

Once a child leaves the state's foster care system, the Department of Family and Protective Services (DFPS) is required to give the child a copy of his or her birth certificate, immunization records, and information from the child's health passport within 30 days. However, a child often requires his or her documents immediately after leaving state conservatorship to obtain housing, employment, or a driver's license. This bill:

Requires DFPS, at the time a child is discharged from foster care, to provide the child, not later than the 30th day before the date the child is discharged from foster care, a copy of certain documents and information, including a personal identification certificate, a Social Security card, and proof of enrollment in Medicaid, if appropriate.

Requires DFPS, in cooperation with the Texas Education Agency and the Department of Public Safety, to develop a plan to ensure that each child in permanent managing conservatorship of DFPS is provided the opportunity to complete a driver's education course and to obtain a driver's license before the child leaves conservatorship.

Requires DFPS to report the results of the plan to the legislature.

Information Relating to Child Fatalities Caused by Abuse and Neglect—S.B. 1050

by Senator Uresti—House Sponsor: Representative McClendon

The National Child Abuse and Neglect Data System (NCANDS) reported an estimated 1,760 child fatalities in 2007, which translates to a rate of 2.35 children per 100,000 children in the general population. Many experts in the field believe that child fatalities, deaths caused by injuries sustained during abuse and neglect, are underreported. This bill:

Requires the Department of Family and Protective Services (DFPS), not later than the fifth day after DFPS receives a request for information about a child fatality with respect to which DFPS is conducting an investigation of alleged

abuse or neglect, to release the age and sex of the child, the date of death, whether the state was the managing conservator of the child at the time of the child's death, and whether the child resided with certain persons.

Requires DFPS, if it is determined that a child's death was caused by abuse or neglect, to promptly release certain information on request, including a summary of previous reports of abuse or neglect, the services provided to the child or child's family by DFPS, and the results of the assessment completed by DFPS on determination that a child's death was caused by abuse or neglect.

Requires DFPS to redact from the records any information the release of which would identify any individual other than the deceased child or an alleged perpetrator of the abuse or neglect, jeopardize an ongoing criminal investigation or prosecution, endanger the life or safety of any individual, or violate other state or federal law.

Requires the executive commissioner of the Health and Human Services Commission to adopt rules to implement this bill.

Placement of Certain Children in Foster Care—S.B. 1332

by Senators Nelson and Uresti—House Sponsor: Representatives Rose and Naishtat

Children who reenter the foster care system after being removed from the care of their parents or another relative are often placed in a new and unfamiliar foster home. It is considered a best practice to place the child in a foster home in which the child previously lived so that the child benefits from developing in a familiar, stable environment. This bill:

Requires the Department of Family and Protective Services (DFPS) to consider placing a child who has previously been in the managing conservatorship of DFPS with a foster parent with whom the child previously resided if DFPS determines that placement of the child with a relative or designated caregiver is not in the child's best interest, and the placement is available and in the child's best interest.

Reducing Child Abuse and Improving Child Welfare—S.B. 2080

by Senator Uresti et al.—House Sponsor: Representative McClendon

In Texas, a child is abused or neglected every 11 minutes, and the number of children placed in foster care due to child abuse increased 30 percent between 2001 and 2005. Children who have been the victims of abuse experience problems in school and are at risk of developing certain health problems or adopting certain unhealthy behaviors. Children who are victims of more severe abuse, such as shaken baby syndrome, may die or sustain permanent brain damage. This bill:

Creates a temporary task force to establish a strategy for reducing child abuse and neglect and improving child welfare in Texas to be submitted to the governor, lieutenant governor, and speaker of the house of representatives.

Requires the Department of Family and Protective Services (DFPS), if DFPS first entered into an adoption assistance agreement with a child's adoptive parents after the child's 16th birthday, to offer adoption assistance after the child's 18th birthday to the child's adoptive parents under an existing adoption agreement until the last day of the month of the child's 21st birthday, provided the child is performing certain actions.

Requires DFPS to continue to pay the cost of foster care for a child for whom DFPS provides care until the last day of the month in which the child attains the age of 18.

Requires DFPS to continue to pay the cost of the foster care for a child after the month in which the child attains the age of 18 as long as the child is regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate; regularly attending an institution of higher education or a postsecondary vocational or technical program; participating in a program or activity that promotes, or removes barriers to, employment; employed for at least 80 hours a month; or incapable of performing these activities due to a documented medical condition.

Authorizes a relative or other designated caregiver who becomes licensed by DFPS or verified by a licensed child-placing agency or DFPS to operate a foster home, foster group home, agency foster home, or agency foster group home to receive foster care payments in lieu of certain benefits.

Requires DFPS to enter into a permanency care assistance agreement with a kinship provider who is eligible to receive permanency care assistance benefits and is the prospective managing conservator of a foster child only if the kinship provider meets the eligibility criteria under federal and state law and DFPS rule.

Authorizes a permanency care assistance agreement to provide for reimbursement of the nonrecurring expenses a kinship provider incurs in obtaining permanent managing conservatorship of a foster child.

Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to implement and administer the permanency care assistance program.

Requires the executive commissioner to set the maximum monthly amount of assistance payments under a permanency care assistance agreement.

Authorizes DFPS, if DFPS first entered into a permanency care assistance agreement with a foster child's kinship provider after the child's 16th birthday, to continue to provide permanency care assistance payments until the last day of the month of the child's 21st birthday, provided the child meets certain conditions.

Requires DSHS to establish the Texas Medical Child Abuse Resources and Education System (MEDCARES) grant program to award grants for the purpose of developing and supporting regional programs to improve the assessment, diagnosis, and treatment of child abuse and neglect.

Authorizes DSHS to award grants to hospitals or academic health centers with expertise in pediatric health care and a demonstrated commitment to developing basic and advanced programs and centers of excellence for the assessment, diagnosis, and treatment of child abuse and neglect.

Requires DSHS to encourage collaboration among grant recipients in the development of program services and activities.

Requires the executive commissioner to establish an advisory committee to advise DSHS and the executive commissioner in establishing rules and priorities for the use of grant funds awarded through the program.

Information Regarding Caregivers for a Child Under Conservatorship—S.B. 2385

by Senator Shapleigh — House Sponsor: Representatives Naishtat and Madden

The Department of Family and Protective Services (DFPS) has specific procedures for documenting its evaluation of relatives as a possible placement resource for children in DFPS custody, but there is no mechanism for ensuring that the information is provided to the court, the parties, or their attorneys. This bill:

Requires DFPS, at certain adversary hearings, to file with the court, after redacting any Social Security numbers:

- a copy of each proposed child placement resources form completed by the parent or other person having legal custody of the child;
- a copy of any completed home study; and
- the name of the relative or other designated caregiver with whom the child has been placed.

Requires DFPS, if the child has not been placed with a relative or other designated caregiver by the time of the hearing, to file with the court a statement explaining:

- the reasons why the child has not been placed; and
- the actions DFPS is taking, if any, to place the child with a relative or other designated caregiver.

Requires a court issuing an appropriate temporary order under the Family Code to require each parent, alleged father, or relative of the child before the court to complete the proposed child placement resources form provided under the Family Code and to file the form with the court, if the form has not been previously filed.

Requires DFPS, not later than 10th day before the date set for a hearing under Chapter 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services), Family Code, to file with the court certain documents that have not already been filed. DFPS is not required to file the documents if the child is in an adoptive placement or another placement that is intended to be permanent.

Labeling Requirements for Drugs Dispensed by Pharmacists—H.B. 19

by Representative Leibowitz et al.—Senate Sponsor: Senator Zaffirni

Currently, pharmacies are required to include the following information on drug containers: the brand name of the drug; the generic name, if there is not a brand name; the strength of the drug; if the drug selected by the pharmacist is different than the one prescribed, the words "substituted for brand prescribed"; and the name of the drug's manufacturer or distributor. This bill:

Requires Class A and Class E pharmacies to include on drug containers the date after which the drug should not be used, which is to be determined according to criteria established by Texas State Board of Pharmacy (TSBP) rule based on standards in the United States Pharmacopeia-National Formulary.

Requires additional information to be affixed to drug containers, including the name, address, and telephone number of the pharmacy; the date the prescription drug was dispensed; the name of the prescribing practitioner; the patient's name, or if prescribed for an animal, the animal's species and name of the owner; instructions for using the drug; the quantity dispensed; the date after which the prescription should not be used ("use-by date") if the drug was dispensed in a container other than the manufacturer's original container; and any other information required by TSBP rule.

Provides that the new label requirements do not apply to a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication.

Provides that the new requirements apply only to drugs dispensed after June 1, 2010.

Regulation of Certain Boarding Home Facilities—H.B. 216

by Representative Menendez et al.—Senate Sponsor: Senator Shapleigh

Boarding homes are establishments in community settings where staff members provide housing, meals, laundry, supervision, and varying levels of assistance to residing adults. Although approximately one thousand exist in the state, current law does not regulate boarding homes. Without regulation, many boarding homes are unsafe and unsanitary and leave residents vulnerable to fraud. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to develop and publish in the *Texas Register* model standards for the operation of a boarding home facility.

Authorizes a county or municipality to require a person to obtain a permit from the county or municipality to operate a boarding home facility within the county's or municipality's jurisdiction.

Authorizes a county or municipality to adopt the standards developed by the executive commissioner of HHSC and require a boarding home facility that holds a permit issued by the county or municipality to comply with the adopted standards.

Requires a boarding home facility that holds a permit to prominently and conspicuously post its permit and other certain notices for display in a public area of the boarding home facility that is readily available to residents, the operator, employees, and visitors.

Authorizes a county or municipality to conduct any inspection, survey, or investigation that it considers necessary and to enter the premises of a boarding home facility at reasonable times to make an inspection, survey, or investigation.

Requires a person, including an owner, operator, or employee of a boarding home facility that holds a permit, who has cause to believe that a resident who is an elderly person or a person with a disability is being or has been abused, neglected, or exploited to report the abuse, neglect, or exploitation to the Department of Family and Protective Services (DFPS) for investigation by DFPS.

Requires each boarding home facility that holds a permit to require each employee to sign a statement that the employee acknowledges that the employee may be criminally liable for failure to report abuse, neglect, or exploitation.

Prohibits an owner, operator, or employee of a boarding home facility that holds a permit from retaliating against an employee of the facility who in good faith makes a complaint to the office of the inspector general of HHSC; cooperates with the office of the inspector general in an investigation; or reports abuse, neglect, or exploitation of a resident to DFPS.

Defines "assisted living facility" to mean an establishment that provides administration of medication or assistance with or supervision of the administration of medication.

Advisory Committee to Study Qualifications for Health Care Translators—H.B. 233

by Representative Rodriguez et al.—Senate Sponsor: Senator Uresti

Currently, translators and interpreters in health care settings are not required to follow any specific guidelines despite the fact that approximately one-third of people in Texas speak a language other than English. The lack of such standard qualifications has led to translation and interpretation errors in health care settings where accurate and timely communication is vital. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) (executive commissioner) to establish the Advisory Committee on Qualifications for Health Care Translators and Interpreters (committee), which will be composed of at least 10 members appointed by the executive commissioner, including at least one member who is: a representative of a professional translators and interpreters association; a health care interpreter working with people who has limited English proficiency; a health care interpreter working with people who are deaf or hard of hearing; a representative of a mental health services provider; a representative of a hospital; a representative of the insurance industry; a representative of a business entity that provided translators and interpreters to health care practitioners; a representative of an organization that provide services to immigrants and refugees; a representative of an institution of higher education; a health care practitioner; and a member who represents consumer interests.

Requires the committee to establish and recommend qualifications for health care translators and health care interpreters, including requiring translators to fluently understand a written foreign language, accurately translate the language into English, and have prior experience in translation and requiring interpreters to fluently understand a spoken foreign language, accurately interpret the language into English, and have prior experience as an interpreter.

Requires the committee to advise HHSC on qualification standards and training requirements for translators and interpreters; develop strategies for implementing the regulation of interpreters and translators; and legislation necessary to establish and enforce qualifications for interpreters and translators or for the adoption of rules by state agencies regulating practitioners, hospitals, physician offices, and health care facilities that hire interpreters or translators.

Regulation of Laser Hair Removal Technicians and Facilities—H.B. 449

by Representative Jim Jackson et al.—Senate Sponsor: Senator Deuell

Permanent hair removal through laser hair removal treatments has increased in popularity over the past several years. Although generally considered safe, some risk factors such as mild skin reactions are associated with laser hair removal. Additionally, lasers and Intense Pulsed Light Devices (IPLs), medical devices that are used in laser hair removal treatments, are considered to be detailed and complex and are regulated by the Texas Department of State Health Services (DSHS) Drugs and Medical Devices Group, the DSHS Radiation Group, and the U.S. Food and Drug Administration. Although these devices are regulated, some believe that additional safety assurances will be gained by requiring additional supervision of laser hair removal facilities and treatments. This bill:

Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules to govern the development and administration of an examination for an applicant for certification or licensure to perform laser hair removal.

Creates four levels of certification for those who perform laser hair removal.

Requires certified laser hair removal professionals to receive certification from an approved body, have at least 24 hours of training, have performed at least 100 laser removal procedures, have supervised at least 100 laser removal procedures, and pass an exam administered by DSHS.

Requires senior laser hair removal technicians, laser hair removal technicians, and laser hair removal apprentices-in-training to also meet training and practice requirements at varying levels.

Requires DSHS to recognize, prepare, or administer continuing education programs for certificate holders.

Prohibits a person from operating a hair removal facility without a license.

Authorizes the executive commissioner to adopt a system under which certificates and licenses expire on various dates during the year.

Requires laser hair removal facilities to have a certified laser hair removal professional or a licensed health professional present to supervise the laser hair removal procedures performed at the facility during the facility's operating hours.

Provides that laser hair removal facilities can continue in operation for 45 days if the certified laser hair removal professional leaves the facility, after which another such professional must be present during operating hours.

Requires that equipment used in laser hair removal treatments comply with all applicable laws and regulations and be used only for the purpose of hair removal.

Requires laser hair removal facilities to establish a contractual relationship with a physician who can be available for emergency consultations.

Requires laser hair removal facilities to provide each customer with a written statement outlining the relevant risks associated with laser hair removal and post a warning sign prescribed by DSHS in a conspicuous location readily visible to a person entering the facility.

Authorizes DSHS to impose an administrative penalty of \$5,000 per violation on a person who violates the new requirements and suspend or revoke a license or certificate.

Regulation of Dyslexia Practitioners and Therapists—H.B. 461

by Representative Eissler et al.—Senate Sponsor: Senators Huffman and Deuell

Current law requires Texas schools to provide instruction to students who have dyslexia, a learning disability characterized by impaired reading ability. However, instructors working with such students are not required to meet state-recognized standards. This bill:

Adopts the Academic Language Therapy Association (ALTA) standards for dyslexia practitioners and dyslexia therapists in Texas.

Requires the Department of State Health Services (DSHS) to issue a licensed dyslexia practitioner or licensed dyslexia therapist license to an applicant who meets the requirements of this bill.

Requires an applicant for a licensed dyslexia practitioner license to have, among other things, earned at least a bachelor's degree from an accredited public or private institution of higher education; successfully completed at least 45 hours of course work in a multisensory structured language education training program; and completed at least 60 hours of supervised clinical experience in multisensory structured language education.

Requires an applicant for a licensed dyslexia therapist license to have, among other things, earned at least a master's degree from an accredited public or private institution of higher education; successfully completed at least 200 hours of course work in a multisensory structure language education training program; and completed at least 700 hours of supervised clinical experience in multisensory structured language education.

Requires that a multisensory structured language education training program meet certain requirements, some of which include being accredited by a nationally recognized accrediting organization; having in writing defined goals and objectives, areas of authority, and policies and procedures; and having the appropriate financial and management resources to operate the training program.

Requires an applicant to pass a written examination approved by DSHS and pay fees set by the executive commissioner of the Health and Human Services Commission (executive commissioner) to obtain a license.

Authorizes DSHS to waive the examination requirement and issue a license to an applicant who holds an appropriate certificate or other accreditation from a nationally accredited multisensory structured language education organization recognized by DSHS.

Authorizes the executive commissioner by rule to provide for a license holder to be placed on inactive status.

Requires a person, to be considered a qualified instructor, to be a licensed dyslexia therapist, have at least 1,400 hours of clinical teaching experience in addition to the hours required to obtain a licensed dyslexia therapist license, and have completed a two-year course of study dedicated to the administration and supervision of multisensory structured language education programs.

Authorizes a licensed dyslexia practitioner to practice only in an educational setting, including a school, learning center, or clinic and a licensed dyslexia therapist to practice in a school, learning center, clinic, or private practice setting.

Prohibits a license holder's license from being renewed unless the license holder meets the continuing education requirements established by the executive commissioner.

Authorizes any person to file a complaint with DSHS alleging a violation of this bill.

Requires DSHS, if a license holder violates this bill or code of ethics adopted by the executive commissioner, to revoke or suspend the license, place the person on probation if the person's license has been suspended, reprimand the license holder, or refuse to renew the license.

Authorizes DSHS to deny a license or to suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony.

Entitles a person, if DSHS proposes to revoke, suspend, or refuse to renew the person's license, to a hearing before a hearings officer appointed by the State Office of Administrative Hearings.

Authorizes a person to apply for reinstatement of a revoked license on or after the first anniversary of the date of the revocation.

Provides that a person who violates this bill is liable for a civil penalty not to exceed \$500 for each occurrence.

Creates an interim committee to study and recommend legislation to increase awareness of early detection and treatment of dyslexia and related disorders.

Requires the interim committee to examine early detection and intervention, access to treatment in rural areas of the state, the role of public education and higher education in detection and treatment, treatment for older students and adults, and any barriers related to accommodations for individuals with dyslexia and related disorders.

Requires the interim committee to report its findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor.

Requires the executive commissioner to adopt rules to implement this bill.

Regulation of Hearing Aid Fitters and Dispensers—H.B. 594

by Representatives Tracy King and Lucio III—Senate Sponsor: Senator Wentworth

During the past 30 years, the number of Americans suffering from hearing loss has doubled, according to the American Speech-Language-Hearing Association. As the state's population ages and more persons develop hearing loss, the need for hearing related services and hearing aids will undoubtedly rise. Currently, Chapters 401 (Hearing Instrument Fitters and Dispensers) and 402 (Speech-Language Pathologists and Audiologists), Occupations Code, authorize the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) and the State Board of Examiners for Speech-Language Pathology and Audiology (board), both divisions of the Texas Department of State Health Services, to administer licenses to hearing instrument fitters and dispensers and to audiologists. Portions of Chapter 402 have not been updated since 1993, and because the next sunset review will not occur until 2013, some believe that the chapter should be revised to more accurately reflect the current conditions in the hearing instrument fitter and dispenser and audiologist community and achieve uniformity between the chapters. This bill:

Authorizes a person licensed to fit and dispense hearing instruments in another state to apply for a license by submitting an application on a form prescribed by the committee.

Requires the committee to require an applicant for a license to provide as a part of the application: verification that the applicant is licensed in good standing in another state and has held the license for at least three years; verification that the requirements to obtain a license in the state in which the applicant is licensed include passing an examination approved by the committee or the applicant holds a certification from a professional organization approved by the committee; affirmation that the applicant is a resident of this state; a statement from the licensing

entity in the state in which the applicant is licensed that details any disciplinary action taken against the applicant; and a statement of the applicant's criminal history acceptable to the committee.

Prohibits the committee from issuing a license to an applicant who is a licensed audiologist in another state, instead referring the applicant to the board.

Authorizes the committee to issue a new temporary training permit under this section to a person one year after the person's previous temporary training permit expired.

Requires a supervisor of a temporary training permit holder be licensed to fit and dispense hearing instruments and currently practice in an established place of business.

Provides that a license is valid for two years, rather than one year.

Requires the committee to renew the license every two years, rather than annually, on payment of the renewal fee unless the license is suspended or revoked.

Authorizes the person to obtain a new license by complying, rather than submitting to reexamination and complying, with the requirements and procedures for obtaining an original license.

Prohibits the committee from renewing a license unless the license holder provides proof that all equipment that is used by the license holder to produce a measurement in the testing of hearing acuity has been properly calibrated or certified by a qualified technician.

Requires the owner of a hearing instrument fitting and dispensing practice to ensure that each client receives a written contract at the time of purchase of a hearing instrument that contains certain information about the license holder who dispensed the hearing instrument; notice of the 30-day trial period under Section 402.401 (Audiometric Testing), Occupations Code; and certain information about the committee.

Authorizes the committee to refuse to issue or renew a license, revoke or suspend a license or permit, place on probation a person whose license or permit has been suspended, or reprimand a license or permit holder who falsely uses certain terms in a misleading manner or based on the applicant's criminal history or history of disciplinary action.

Qualification Requirements for Surgical Technologists—H.B. 643

by Representative Zerwas—Senate Sponsor: Senator Uresti

Surgical technologists ensure the sterility of surgical instruments and help prepare patients for surgery, pass instruments to surgeons and care for specimens removed during surgery, and help clean operating rooms and transfer patients to recovery rooms following surgery. Surgical technologists are key members of the operating room team, especially as medical procedures grow in complexity. It is therefore necessary to increase the number of qualified practicing surgical technologists by improving the uniformity of their practice standards. This bill:

Prohibits a health facility licensed by the Department of State Health Services (DSHS) or owned or operated by the state from employing a person to practice surgical technology unless that person provides certain evidence of his or her qualification.

Authorizes a health care facility to employ a person to practice surgical technology from the date the person graduates from an accredited educational program until the 180th day after the date of graduation, at which time surgical technologists must show documentation that they hold and maintain the surgical technologist certification.

Authorizes a health care facility to employ a surgical technologist who does not meet the requirements if the facility is unable to employ a sufficient number of qualified surgical technologists who meet the requirements of this section.

Authorizes DSHS to adopt rules to administer and enforce these requirements.

Provides that a health care facility that violates these requirements is subject to an administrative penalty, a civil penalty, or other disciplinary action.

License Requirements for Certain Optometrists Practicing Volunteer Care—H.B. 675

by Representative Bonnen—Senate Sponsor: Senator Huffman

Texas optometrists and therapeutic optometrists are authorized to renew their licenses with the Texas Optometry Board (TOB) if the license has been expired for less than one year. If their license has been expired for one year or more, then they must reapply for a new license. Although this practice was implemented to improve the practice of optometry, it has prevented some retired optometrists and therapeutic optometrists whose license has been expired for more than one year from providing volunteer charity care. This bill:

Requires a license holder to apply to TOB for retired status before the expiration date of the person's license.

Authorizes TOB by rule to allow a license holder to place the person's license on retired status and in determining whether to grant retired status, to consider the age, years of practice, and status of the license holder at the time of the application.

Requires the license holder, to reinstate a license placed on retired status, to submit a written request for reinstatement to TOB.

Authorizes TOB to return the license to active status and issue a renewal license if the license holder complies with any education or other requirement established by TOB rule and pays the renewal fee in effect at the time of the requested reinstatement.

Authorizes a license holder on retired status to perform an activity regulated under Chapter 351 (Optometrists and Therapeutic Optometrists), Occupations Code, if the license holder's practice consists only of voluntary charity care, as defined by TOB rule.

Requires that TOB's rules prescribe the scope of practice permitted for the license holder, the license holder's authority to prescribe and administer drugs, and any continuing education requirements applicable to the license holder.

Authorizes TOB to renew the license of a person whose license has been expired for one year or more without requiring the person to comply with the requirements and procedures for an original license if the person places the person's renewed license on retired status and confines the person's practice solely to voluntary charity care.

Requires TOB to adopt rules necessary to implement the changes in law.

Information on a Physician's Medical Board Profile—H.B. 732

by Representative Hartnett—Senate Sponsor: Senator Huffman

The Texas Medical Board (TMB) maintains annually updated public profiles on each physician practicing in the state. TMB also receives formal complaints filed by members of the public against physicians. These complaints, made

under oath and presented by a TMB representative, charge a person with having committed an act that could potentially affect the legal rights or privileges of a license holder. The nature of the complaints are included in physicians' profiles. This bill:

Requires TMB, in its annual update of physician profiles, to remove any record of a formal complaint if the complaint was dismissed more than five years before the date of the update and was dismissed as baseless, unfounded, or not supported by sufficient evidence that a violation occurred, or no action was taken against the physician's license as a result of the complaint.

Requires TMB to remove any record of the investigation of medical malpractice claims or complaints required to be investigated by TMB if the investigation was resolved more than five years before the date of the update and no action was taken against the physician's license as a result of the investigation.

Transfer of Oversight of Regional Poison Control Centers—H.B. 1093

by Representative Pickett—Senate Sponsor: Senator Nelson

Texans can receive emergency treatment information for poisonings or toxic exposures by dialing the poison control network's 24-hour toll free telephone number. The state's poison control network, consisting of six poison control centers (centers) throughout the state, is currently administered by both the Commission on State Emergency Communications (CSEC) and the Department of State Health Services (DSHS). This bill:

Transfers, by May 1, 2010, all functions and activities relating to the centers performed by DSHS jointly with CSEC, including court cases and other proceedings, unexpended and unobligated balance of money appropriated by the legislature for the centers, and all money, contracts, leases, rights, property, records, and bonds and other obligations of DSHS relating to the centers, to CSEC.

Provides that a rule, form, policy, procedure, or decision jointly continues in effect as a rule, form, policy, procedure, or decision of the CSEC and remains in effect until amended or replaced by the CSEC.

Provides that a reference in law or an administrative rule to DSHS or its predecessor relating to regional poison control centers is a reference to CSEC.

Requires DSHS, on request of CSEC, to provide epidemiological support to the regional poison control centers under this chapter to maximize the use of data collected by the poison control network, assist the regional poison control centers with quality control and quality assurance, assist with research, and coordinate poison control activities with other public health activities.

Requires each regional poison control center to provide DSHS with access to all data and information collected by the regional poison control center for public health activities and epidemiological and toxicological investigations.

Regulation of Freestanding Emergency Medical Care Facilities—H.B. 1357

by Representative Isett et al.—Senate Sponsor: Senators Deuell and Shapiro

Freestanding emergency medical care facilities (facilities) are used as alternative sources of after-hours urgent care and are increasing in number as the demand for timely and convenient urgent care grows. Although there are approximately 40 such facilities in Texas, they are currently not required to be licensed and regulated. This bill:

Requires a person who establishes or operates a freestanding emergency medical care facility (facility) in this state to obtain a license issued by the Department of State Health Services (DSHS) by March 1, 2010.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to establish a classification for a facility that is in continuous operation 24 hours per day and seven days per week and a classification for a facility that is in operation seven days per week and at least 12 hours per day.

Provides that a facility that is not in continuous operation 24 hours per day and seven days per week cannot be issued a license with a term that extends beyond August 31, 2013.

Requires the executive commissioner to adopt rules, including requirements for the issuance, renewal, denial, suspension, and revocation of a license to operate a facility; minimum standards for the construction and design of the facilities; the number, qualifications, and organization of the professional staff and other personnel; the administration of the facility; the equipment essential to the health and welfare of the patients; the sanitary and hygienic conditions within the facility and its surroundings; the requirements for the contents, maintenance, and release of medical records; the minimal level of care and standards for denial of care; the provision of laboratory and radiological services; the distribution and administration of drugs and controlled substances; and a quality assurance program for patient care.

Requires a facility that is not in continuous operation to display a clearly visible sign that includes information about whether it is open or closed, its operating hours, and the location of the nearest emergency room.

Requires a facility to provide to each facility patient, without regard to the individual's ability to pay, an appropriate medical screening, examination, and stabilization within the facility's capacity to determine whether an emergency medical condition exists and any necessary stabilizing treatment.

Authorizes a person to file a complaint with DSHS against a facility.

Authorizes DSHS to deny, suspend, or revoke a license or schedule the facility for probation for a violation.

Authorizes DSHS to petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements if the violation creates an immediate threat to the health and safety of the patients of a facility.

Provides that a person commits a Class C misdemeanor offense for violation of the licensing regulations.

Authorizes DSHS to impose an administrative penalty to not exceed \$5,000 on a person who violates the licensing regulations.

Authorizes the court, if the court sustains the finding that a violation occurred, to uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

Requires a health care plan of a health maintenance organization (HMO) issued after March 1, 2010, to provide coverage of emergency care provided in a facility.

Authorization to Dispense Therapeutic Contact Lenses—H.B. 1740

by Representatives Donna Howard and Legler—Senate Sponsor: Senator Uresti

Therapeutic contact lenses, a new technology that will be classified as a drug following approval by the Food and Drug Administration (FDA), contain drugs that are delivered into the wearer's eye to treat eye disorders. Current law prohibits a person who does not hold a license to practice pharmacy from dispensing a prescription drug or distributing a medication order. This bill:

Provides that the Texas Pharmacy Act does not prevent a physician or therapeutic optometrist from dispensing and charging for therapeutic contact lenses.

Provides that the bill does not authorize a therapeutic optometrist to prescribe, administer, or dispense a drug that is otherwise outside the therapeutic optometrist's scope of practice.

Licensing of Occupational Therapists—H.B. 1785

by Representative Kuempel—Senate Sponsor: Senator Nichols

Occupational therapists who are licensed in Texas, move to another state to practice, and while in the other state, allow their license to expire can, according to current law, renew their license after moving back to Texas if they have an out-of-state license and have been actively practicing for the previous two years. Occupational therapists who have never been licensed in Texas and are seeking a provisional license in Texas do not have to take an examination for licensure. Additionally, the Texas Board of Occupational Therapy Examiners (TBOTE) has not been under Sunset Advisory Commission review since 1993, and many provisions in statute related to occupational therapy are outdated. This bill:

Provides that to meet the academic requirements of TBOTE, an applicant applying for an occupational therapist license must have a bachelor's degree in occupational therapy, if the applicant graduated before January 1, 2007; a certificate evidencing successful completion of required undergraduate occupational therapy course work awarded to persons with a bachelor's degree not in occupational therapy, if the applicant graduated before January 1, 2007; or a post-bachelor's degree in occupational therapy.

Requires an applicant applying for an occupational therapy assistant license to have an associate's degree in occupational therapy or an occupational therapy assistant certificate.

Authorizes a person whose license has been expired for 90 days or less to renew the license by paying a renewal fee and late fee that does not exceed one-half of the examination fee.

Authorizes a person whose license has been expired for more than 90 days but less than one year to renew the license by paying all unpaid renewal fees and a late fee that does not exceed the examination fee.

Requires a person whose license has been expired for one year or longer to comply with TBOTE's requirements and procedures to reinstate the license and pay a reinstatement fee set, rather than prohibiting the person from renewing the license.

Authorizes the person, if TBOTE requirements cannot be met, to obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

Authorizes TBOTE to renew without reexamination the expired license of a person who was licensed to practice as an occupational therapist in Texas, moved to another state, is currently licensed and in good standing in the other state, and meets TBOTE's requirements.

Certification of Emergency Medical Services Personnel—H.B. 2845

by Representative Riddle et al.—Senate Sponsor: Senator Nichols

Texans who require the services of emergency medical services (EMS) personnel are particularly vulnerable and under severe distress. However, current Texas law, under Chapter 53, Occupations Code, does not authorize the

Department of State Health Services (DSHS) to consider the criminal history of applicants for certification as EMS personnel. This bill:

Provides that Chapter 53 (Consequences of Criminal Conviction), Occupations Code, does not apply to an applicant for certification as EMS personnel.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) (executive commissioner) to consider the criminal background of allied health professionals in adopting the minimum standards for EMS personnel certification.

Authorizes DSHS to provide a prescreening criminal history record check for an EMS personnel applicant to determine the applicant's eligibility to receive certification before enrollment in the educational and training requirements mandated by the executive commissioner.

Authorizes the commissioner of health (commissioner) to suspend or revoke a certificate, disqualify a person from receiving a certificate, or deny a person the opportunity to take a certification examination on the grounds that the person 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 EMS personnel.

Requires that a certificate holder's certificate be revoked if the certificate holder is convicted of or placed on deferred adjudication community supervision or deferred disposition for certain offenses.

Requires the commissioner, in determining whether an offense directly relates to the duties and responsibilities of EMS personnel, to consider the nature and seriousness of the crime, the relationship of the crime to the purposes for requiring certification to engage in emergency medical services, and other aspects related to the crime.

Requires the applicant or certificate holder to furnish proof that the applicant or certificate holder has maintained a record of steady employment; supported the applicant's or certificate holder's dependents; maintained a record of good conduct; and paid all outstanding court costs, supervision fees, fines, and restitution ordered.

Requires the executive commissioner to issue guidelines relating to the commissioner's decision-making and that the guidelines state the reasons a particular crime is considered to relate to EMS personnel and include any other criterion that may affect the decisions of the commissioner.

Authorizes a person whose certificate has been suspended or revoked or who has been denied a certificate or the opportunity to take an examination and who has exhausted the person's administrative appeals to file an action in the district court in Travis County for review of the evidence presented to the commissioner and the decision of the commissioner.

Authorizing Department of State Health Services to Obtain Background Checks—H.B. 2917

by Representative McReynolds—Senate Sponsor: Senator Shapiro

Current law authorizes the Department of State Health Services (DSHS) to obtain criminal background checks and annual renewals for applicants and employees of the state mental health hospitals. This bill:

Authorizes DSHS to obtain from the Texas Department of Public Safety (DPS) criminal history record information that relates to an applicant for employment at or current employee of the Texas Center for Infectious Disease or the South Texas Health Care System or an applicant for employment at, current employee of, or person who contracts to provide goods or services with the vital statistics unit of DSHS or the Council on Sex Offender Treatment or other division of DSHS that monitors sexually violent predators.

Requires DSHS to destroy the criminal history record information that relates to an applicant for employment after that applicant is employed or, for an applicant who is not employed, after the check of the criminal history record information on that applicant is completed or an employee or contractor after the check of the criminal history record information on that employee or contractor is completed.

Prohibits DSHS from considering offenses for which points are assessed to determine whether to hire or retain an employee or to contract with a person on whom criminal history record information is obtained.

Regulation of Cemeteries by State and Local Government—H.B. 2927

by Representative Donna Howard et al.—Senate Sponsor: Senator Nelson

After a dispute over encroachment onto a historic cemetery during the Texas Ranger Museum expansion project, a house subcommittee was appointed to study current state statutes relating to the management of certain cemeteries. The subcommittee found that statutes meant to clarify the legislative intent about known and unknown burials and which state agency has jurisdiction over historic cemeteries are confusing and contradictory. This bill:

Authorizes human remains, if consent cannot be obtained, to be removed by permission of a district court of the county in which the cemetery is located.

Requires that notice, before the date of application to the court for permission to remove remains, be given to the cemetery organization operating the cemetery in which the remains are interred or if the cemetery organization cannot be located or does not exist, the Texas Historical Commission (THC).

Requires the person who removes the remains, if the remains are not reinterred, to make and keep a record of the disposition of the remains and, not later than the 30th day after the date the remains are removed, provide notice to the Texas Funeral Service Commission (TFSC) and the Department of State Health Services (DSHS) of the person's intent not to reinter the remains and the reason the remains will not be reinterred.

Authorizes a district court of the county in which a cemetery is located to abate the cemetery as a nuisance and enjoin its continuance if the cemetery is maintained, located, or used in violation or neglected so that it is offensive to the inhabitants of the surrounding section.

Requires that notice of an abatement be provided to THC and to the county historical commission of the county in which the cemetery is located.

Prohibits the owner of property on which an unknown cemetery is discovered or on which an abandoned cemetery is located from constructing improvements on the property that would further disturb the cemetery until the human remains interred in the cemetery are removed under a written order issued by the state registrar and under an order of a district court.

Requires that the removal of remains be supervised by a cemetery keeper, a licensed funeral director, a medical examiner, a coroner, or a professional archeologist.

Requires a person who discovers an unknown or abandoned cemetery to file notice of the cemetery with the county clerk of the county in which the cemetery is located not later than the 10th day after the date of the discovery and that a copy of the notice be sent to THC.

Authorizes the Finance Commission of Texas to adopt rules relating to perpetual care cemeteries, the Texas Funeral Service Commission (TFSC) to adopt rules relating to cemeteries that are not perpetual care cemeteries, and THC to adopt rules relating to cemeteries that are not perpetual care cemeteries.

Prohibits a railroad, street, road, alley, pipeline, telephone, telegraph, electric line, wind turbine, cellular telephone tower, or other public utility or thoroughfare from being placed through, over, or across a part of a dedicated cemetery without the consent of the directors of the cemetery organization that owns or operates the cemetery or at least two-thirds of the owners of plots in the cemetery.

Authorizes an owner of land adjacent to a cemetery for which a cemetery organization or other governing body does not exist to petition a district court of the county in which the cemetery is located to remove any human remains and the dedication for all or any portion of the cemetery.

Requires unknown next of kin of deceased persons buried in the cemetery to be served by publication of a notice in a newspaper of general circulation in the county in which the cemetery is located.

Authorizes the attorney general, on request of TFSC, to seek to enforce by injunction any rule or order adopted by TFSC.

Requires the district court and the nonprofit corporation to comply with the requirements of Chapter 715 (Certain Historic Cemeteries), Health and Safety Code, in assuming responsibility for the cemetery.

Requires a municipality that operates or has jurisdiction over a public cemetery to maintain the cemetery in a condition that does not endanger the public health, safety, comfort, or welfare.

Licensing of Assisted Living Facilities—H.B. 2972

by Representative Coleman—Senate Sponsor: Senator Van de Putte

Current law requires an applicant for an assisted living facility license or license renewal and managers of assisted living facilities to provide the personal information of each individual who is designated as a "controlling person" of the facility. The purpose of this bill is to clarify the definition of a controlling person, which is currently too broad and delays the application process. This bill:

Provides that a controlling person of an assisted living facility, institution, a management company, or other business entity that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) (executive commissioner) to adopt rules to implement an expedited inspection process that allows an applicant for a license or for a renewal of a license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made.

Provides that a six-month provisional license to existing facilities with residents expires the earlier of the 180th day after the effective date of the provisional license or the end of any extension period granted by HHSC or the date a license is issued to the provisional license holder.

Requires HHSC, upon submission of a written request by the applicant, to automatically issue a provisional license to a newly constructed facility if before beginning construction, the license applicant submits working drawings and specifications to HHSC for review and HHSC determines that the license applicant constructed another facility in this state that complies with HHSC's life safety code standards.

Requires the executive commissioner to adopt rules to implement an expedited inspection process that allows an applicant for an assisted living facility license or for a renewal of a license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made.

Authorizes HHSC, if HHSC conducts more than two life safety code inspections at the applicant's facility, to collect a fee for the application for the license in addition to the fee to cover the cost of the expedited inspection.

Requires HHSC to annually report the number of life safety code surveys for an initial assisted living facility license.

Relating to Food Handlers—H.B. 3012

by Representative Coleman—Senate Sponsor: Senator Nelson

Foodborne illness occurs when a person has consumed food that, because of improper handling, harbors and grows harmful bacteria. Each year, illnesses contracted as a result of improper food handling cause approximately 325,000 hospitalizations and 5,000 deaths in the United States. Food handlers must follow strict but simple guidelines during food preparation to prevent bacterial contamination. This bill:

Authorizes a county, a public health district, or the Department of State Health Services (DSHS) to require certification for each food handler who is employed by a food service establishment in which food is prepared on-site for sale to the public and which holds a permit issued by the county, the public health district, or DSHS.

Prohibits a county, a public health district, or DSHS from requiring an establishment that handles only prepackaged food and does not prepare or package food to employ certified food handlers.

Authorizes a county, a public health district, or DSHS to require a food service establishment to post a sign in a place conspicuous to employees describing a food service employee's responsibilities to report certain health conditions to the permit holder under rules adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner), or require that each food service employee sign a written agreement in a form adopted by the executive commissioner to report those health conditions.

Prohibits a person handling food or unsealed food containers from having contact with bare hands exposed ready-to-eat food unless documentation is maintained at the food service establishment listing the foods and food handling activities that involve bare-hand contact, and the food service establishment uses two or more of the following contamination control measures: requiring employees to perform double hand washing, requiring employees to use fingernail brushes while hand washing, requiring employees to use a hand sanitizer after hand washing, implementing an incentive program that encourages employees not to come to work when ill, and any other contamination control measure approved by the regulatory authority.

Licensing Requirements for Foreign-Trained Physicians—H.B. 3674

by Representatives Thompson and Naishtat—Senate Sponsor: Senator Nelson et al.

Current law requires applicants for medical licensure in Texas who have graduated from a school outside of the United States to be eligible for licensure in the country of graduation before obtaining licensure in Texas. However, foreign countries often require eligible applicants to first complete a term of service, which is impossible for those who are training in the United States or are working elsewhere. This bill:

Requires applicants for a license to practice medicine (license) to subscribe to an oath, rather than an oath in writing before an officer authorized by law to administer oaths.

Requires an applicant to present proof satisfactory to the Texas Medical Board (TMB) that each medical school attended by the applicant is substantially equivalent to a Texas medical school, or the applicant is specialty board certified by a specialty board organization acceptable to TMB.

Requires a license applicant who is a graduate of a medical school that is located outside the United States (U.S.) and Canada to present satisfactory proof to TMB, including proof that the applicant has successfully completed at least three years of graduate medical training in the U.S. or Canada that was approved by TMB, or at least two years of graduate medical training in the U.S. or Canada that was approved by TMB and at least one year of graduate medical training outside the U.S. or Canada that was approved for advanced standing by a specialty board organization approved by TMB.

Exemptions for Requirements to Hold a Physical Therapy License—H.B. 3717

by Representative Susan King—Senate Sponsor: Senator Nelson

Current law exempts students obtaining an entry-level physical therapy degree and students from outside of Texas visiting the state to participate in a conference from licensure and other requirements related to practicing physical therapy. No other applicants for physical therapy licensure are eligible for exemptions. This bill:

Exempts from licensing requirements a physical therapist who is licensed in another jurisdiction of the United States if the person is engaging, for not more than 90 days in a 12-month period and under the supervision of a physical therapist licensed in this state, in a special project or clinic required for completion of a post-professional degree in physical therapy and the person notifies the Texas Board of Physical Therapy Examiners (TBPE) of the person's intent to practice in this state.

Exempts from licensing requirements a person who practices physical therapy or as a physical therapy assistant and who is practicing physical therapy in the United States armed services, United States Public Health Service, or Veterans Administration; licensed in another jurisdiction of the United States or in another country if the person is teaching, demonstrating, or practicing physical therapy in an educational seminar in this state for not more than 60 days in a 12-month period, and the person notifies TBPE of the person's intent to practice in this state; or by contract or employment, is practicing physical therapy in this state for not more than 60 days in a 12-month period for an athletic team or organization temporarily competing or performing in this state.

Exempts from licensing requirements a person who practices physical therapy or as a physical therapy assistant and who is licensed in another jurisdiction of the United States, if the person notifies TBPE of the person's intent to practice in this state, and is practicing physical therapy for not more than 60 days during a declared local, state, or national disaster or emergency, or is displaced from the person's residence or place of employment due to a declared local, state, or national disaster and is practicing physical therapy in this state for not more than 60 days after the date the disaster is declared.

Criminal History Checks for Special Care Facility Employees—H.B. 3737

by Representatives Anchia and Moody—Senate Sponsor: Senator Wendy Davis

Current law requires employees and applicants for employment at certain facilities providing care to the elderly or disabled to undergo a criminal background check. Chapter 250, Health and Safety Code, defines a "facility" as a nursing home, custodial care home, assisted living facility, home and community support services agency, adult day care facility, facility for persons with mental retardation (ICF-MR), adult foster care provider, facility that provides mental health services, or local mental health or mental retardation authority (MHMR). This bill:

Redefines "facility" to include a special care facility licensed by the Department of State Health Services.

Regulation of Nursing—H.B. 3961

by Representatives McReynolds and Pena—Senate Sponsor: Senator Nelson

The Texas Board of Nursing (BON) licenses and regulates the practice of nursing and nursing education programs. The purpose of this bill is to update the Nursing Practice Act to ensure the confidentiality of nurses' personal information and protect patient safety by restructuring nurse evaluations. This bill:

Requires BON to assess a surcharge of not less than \$3 or more than \$5 for a registered nurse and a surcharge of not less than \$2 or more than \$3 for a vocational nurse to the fee established by BON for a license holder to renew a license.

Provides that a nursing program outside of Texas is considered to meet standards equivalent to BON's standards if the program is part of an institution of higher education located outside Texas that is approved by the appropriate regulatory authorities of that state; holds regional accreditation; holds specialty accreditation; requires program applicants to be a licensed practical or vocational nurse, a military service corpsman, or a paramedic, or to hold a college degree in a clinically oriented health care field with demonstrated experience providing direct patient care; and graduates students who achieve certain outcomes.

Provides that a nurse's personal contact information collected by BON for use by an emergency relief program is confidential and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than for the purpose of contacting the nurse to assist in an emergency relief program.

Provides that information regarding a person's diagnosis or treatment for a health condition or chemical dependency that the person submits to BON for a petition for a declaratory order of eligibility for a license or for an application for an initial license or a license renewal is confidential.

Authorizes BON to require a nurse or applicant to submit to an evaluation only if BON has probable cause to believe that the nurse or applicant is unable to practice nursing with reasonable skill and safety to patients because of physical impairment, mental impairment, or chemical dependency or abuse of drugs or alcohol.

Requires BON, if the nurse or applicant refuses to submit to the evaluation, to schedule a hearing on the issue of probable cause to be conducted by the State Office of Administrative Hearings (SOAH).

Authorizes BON, if a nurse or applicant refuses to submit to an evaluation after an order requiring the evaluation is entered, to refuse to issue or renew a license, suspend a license, or issue an order limiting the license.

Requires that the evaluation be expunged from BON's records if BON determines there is insufficient evidence to bring action against a person based on the results of any evaluation.

Provides that an applicant or nurse who is refused an initial license or renewal of a license or whose license is suspended is not eligible for a probationary, stipulated, or otherwise encumbered license unless BON establishes by rule criteria that would permit the issuance or renewal of the license.

Requires BON to temporarily suspend the license of a nurse if the nurse is under a BON order prohibiting the use of alcohol or a drug or requiring the nurse to participate in a peer assistance program, and the nurse tests positive for alcohol or a prohibited drug, refuses to comply with a BON order to submit to a drug or alcohol test, or fails to participate in the peer assistance program and the program issues a letter of dismissal and referral to BON for noncompliance.

Requires a person subject to a probation order to conform to certain conditions BON sets as the terms of probation, including requiring the person to submit to random drug or alcohol tests.

Requires the nursing resource section to conduct a research study of alternative ways to assure clinical competency of graduates of nursing educational programs.

Requires that the research study be designed to determine whether the graduates of a clinical competency assessment program are substantially equivalent to the graduates of supervised clinical learning experiences programs in terms of clinical judgments and behaviors.

Continuing Education Requirements for Physical Therapists—H.B. 4281

by Representative Susan King—Senate Sponsor: Senator Nelson

Various licensed health practioners are required by law to take continuing education courses that address competence and clinical skills. These courses are invaluable because they equip practitioners with additional tools to help them treat patients in a competent and safe manner using the most up-to-date clinical information. This bill:

Requires the Texas Board of Physical Therapy Examiners (TBPTE) by rule to adopt requirements for continuing competence for license holders in subjects pertaining to the practice of physical therapy, establish a minimum number of continuing competence units required to renew a license, and develop a process to approve continuing competence activities.

Authorizes TBPTE to require license holders to complete, rather than attend, continuing competence activities specified by TBPTE.

Authorizes, rather than requires, TBPTE to identify the key factors for the competent performance by a license holder of the license holder's professional duties.

Authorizes, rather than requires, TBPTE, in developing a process for the approval of continuing competence activities, to authorize appropriate organizations to approve the activities.

Regulation of Discount Health Care Programs—H.B. 4341

by Representative Truitt—Senate Sponsor: Senator Shapiro

Discount health care programs are non-insurance programs that offer discounts on health services, such as vision and dental care, to members who pay a monthly fee. These programs are often legitimately offered through associations, unions, employers, or private discount health care programs; however, some discount health care program operators defraud consumers by selling a discount card that is not known or accepted by any health care providers. In 2007, the 80th Legislature enacted H.B. 3064 to require the Texas Department of Licensing and Regulation (TDLR) to regulate discount health care programs. This bill:

Repeals Chapter 76 (Discount Health Care Programs), Health and Safety Code, regulating discount health care programs under TDLR. Transfers registration, oversight, and enforcement duties related to these programs to the Texas Department of Insurance (TDI).

Prohibits a discount health care program (program) operator from offering a program in this state unless the program operator is registered with TDI.

Provides that it is an unfair or deceptive practice in the business of discount health care programs to fail to register or renew registration or with intent to deceive, file with TDI a false statement in connection with an application for registration, or application for renewal of a registration, as a program operator.

Provides that it is an unfair or deceptive practice in the business of discount health care programs to misrepresent the price range of discounts offered by the program, misrepresent the size or location of the program's network of providers, misrepresent the participation of a provider in the program's network, suggest that a discount card offered through the program is a federally approved Medicare prescription discount card, use the term "insurance" in a certain manner, or use certain terms in a manner that could reasonably mislead an individual into believing that the program is health insurance.

Requires a program operator to provide a toll-free telephone number and Internet website for members to obtain information about the program; confirm or find providers currently participating in the program and remove a provider from the program if the provider is no longer participating in the program; issue at least one membership card to serve as proof of membership in the program; issue at least one set of disclosure materials describing the terms and conditions of the program; ensure that an application form or other membership agreement clearly discloses the duration of membership and the amount of payments the member is obligated to make; allow any member who cancels a membership in the program to receive a refund; and maintain a surety bond, payable to TDI for the use and benefit of members, in the principal amount of \$50,000.

Authorizes a program operator to market directly or contract with marketers for the distribution of the program operator's discount health care programs.

Requires a program operator to contract, directly or indirectly, with a provider offering discounted health care services or products under the program.

Authorizes the commissioner of insurance (commissioner) by order, if the commissioner reasonably believes that a program operator or a marketer may not be operating in compliance, to require the submission to the commissioner any advertisement, solicitation, or marketing material, disclosure material, discount card, agreement, or other document requested.

Requires TDI, when TDI has reason to believe that a person engaged in the business of discount health care programs in this state has engaged in an unfair method of competition, to serve on the person a statement of the charges and a notice of the hearing on the charges.

Authorizes a district court in Travis County or in the county in which the person resides, if a person refuses to comply with a subpoena issued in connection with a hearing or refuses to testify, to order the person to comply with the subpoena or testify.

Requires TDI, on determining that a person committed a violation, to make written findings and serve on the person an order requiring the person to cease and desist from engaging in the unfair method of competition or act or practice.

Provides that a person who violates a cease and desist order is subject to penalties.

Authorizes the attorney general to bring an action for an injunction and request the issuance of a civil penalty if the attorney general has reason to believe that a person engaged in the business of discount health care programs in this state has engaged in a practice defined as unlawful.

Authorizes TDI to accept assurance of voluntary compliance from a person who is has engaged in a practice in violation.

Requires the commissioner to adopt rules to implement Chapter 7001 (Registration of Discount Health Care Program Operators), Insurance Code.

Licensing and Inspection Requirements of Certain Child-Care Facilities—S.B. 68

by Senator Nelson—House Sponsor: Representative Darby et al.

Current law requires the Department of Family and Protective Services (DFPS) to license and regulate facilities and homes that provide child care. DFPS exempts certain programs from licensing and regulation, including Boys and Girls Club. However, a decision by the attorney general of Texas in 2008 nullified these exemptions. This bill:

Exempts the following facilities and organizations from the bill's licensing and regulation requirements: a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are engaging in certain activities, including retreats or classes for religious instruction, that does not advertise as a child-care facility or day-care center and informs parents that it is not licensed by the state; a child-care facility that operates for less than three consecutive weeks and less than 40 days in a period of 12 months; a program in which a child receives direct instruction in a single skill, talent, ability, expertise, or proficiency that does not advertise itself as child-care and conducts background checks on employees; an elementary-age recreation program that adopts certain standards of care; a living arrangement in a caretaker's home involving one or more children or a sibling group in which the caretaker had a prior relationship with the child or sibling group; a living arrangement in a caretaker's home involving one or more children or a sibling group in which DFPS is the managing conservator of the child or sibling group and has placed the child or sibling group in the caretaker's home; and a living arrangement in a caretaker's home involving one or more children or a sibling group in which the child is in the United States on a time-limited visa under the sponsorship of the caretaker or of a sponsoring organization.

Defines "before-school or after-school program" and "school-age program" as child-care facilities that must be licensed by DFPS.

Authorizes DFPS, in promulgating minimum standards, to recognize and treat differently the types of services provided by before-school or after-school programs and school-age programs.

Requires DFPS, in determining and enforcing minimum standards for a school-age program, to consider commonly accepted training methods for the development of a skill, talent, ability, expertise, or proficiency that are implemented with the consent of the parent of the participant and that are fundamental to the core purpose of the program.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt specific rules and minimum standards for a child-care facility that is located in a temporary shelter in which an adult, accompanied by a child related to the adult or a child for whom the adult is the managing conservator, may temporarily reside and that provides care for less than 24 hours a day for a child of an adult temporarily residing in the shelter.

Requires DFPS, before adopting minimum standards for the provisions of child-care services, to convene a temporary work group that is composed of at least six members who represent the diverse geographic regions of this state to advise DFPS regarding the proposed standards.

Prohibits a person from interfering with an investigation or inspection of a facility or family home conducted by DFPS.

Requires the facility or family home, during an investigation or inspection of a facility or family home, to cooperate with DFPS and allow DFPS to access the records and premises of the facility or family home and interview any child, employee, or other person who is present at the facility or family home.

Authorizes a district court in Travis County or in the county in which the suspected facility or family home is located to assist DFPS by issuing an order allowing DFPS to enter the suspected facility or family home at a time when DFPS evidence shows that the suspected facility or family home may be providing child care subject to regulation.

Requires the director of a child-care facility, child-placing agency, or family home, when applying to operate a child-care facility or child-placing agency, to submit to DFPS for use in conducting background and criminal history checks the names of certain persons, including each prospective employee of the facility, agency, or home; each current or prospective foster parent providing foster care through a child-placing agency; and each prospective adoptive parent seeking to adopt through a child-placing agency.

Requires the director of a child-placing agency, foster home, or foster group home to, before a child for whom DFPS is the managing conservator is placed with the agency or in the home, submit a complete set of fingerprints of certain persons.

Requires the director of a child-care facility or family home to submit a complete set of fingerprints of each person whose name is required to be submitted if the person resided out of state for five years prior to submission of the names and may have a criminal history.

Authorizes DFPS to file suit in a district court in Travis County or in the county in which a facility or family home is located for assessment and recovery of a civil penalty, for injunctive relief, including a temporary restraining order, or for both a civil penalty and injunctive relief when it appears that a person knowingly fails to meet or maintain an exemption and engages in activities that require a license or registration.

Provides that a person is subject to a civil penalty if the person knowingly fails to meet or maintain any criterion of an exemption and engages in activities that require a license or registration or fails to inform DFPS of a change in status and the person knows the change in status requires the person to be licensed or registered.

Prohibited Use of Recalled Children's Products in Certain Child-Care Facilities—S.B. 95

by Senators Van de Putte and Zaffirini—House Sponsor: Representative Menendez

The United States Consumer Product Safety Commission (commission) provides information to the media when children's products are recalled; however, the information is not effectively reaching consumers and dangerous children's products may end up in child-care facilities. This bill:

Provides that a children's product is presumed to be unsafe if it has been recalled for any reason by the commission and the recall has not been rescinded.

Prohibits certain child-care facilities from using an unsafe children's product or from having an unsafe children's product on the premises of the child-care facility unless the product is an antique or collectible and is not used by, or accessible to, any child, or the unsafe children's product is being retrofitted to make it safe and the product is not used by, or accessible to, any child.

Authority of Dental Hygienists to Provide Services in Certain Facilities—S.B. 97

by Senator Van de Putte—House Sponsor: Representative Villarreal

Current law authorizes dentists to allow a dental hygienist to provide certain preventative dental services at a nursing facility or a school-based health center if the dental hygienist has at least two years of experience in the practice of dental hygiene. The purpose of this bill is to extend preventative dental services provided by dental hygienists to underprivileged children who lack access to dental care. This bill:

Authorizes a licensed dentist to delegate a service, task, or procedure to a dental hygienist if the dental hygienist has at least two years experience in the practice of dental hygiene, and the service, task, or procedure is performed in a nursing facility, school-based health center, or community health center.

Authorizes a dental hygienist to only perform delegated tasks or procedures with respect to a patient for six months unless the patient has been examined by a dentist.

Provisional Licensing of Physicians to Practice in Underserved Areas—S.B. 202

by Senators Shapleigh and Uresti—House Sponsor: Representative Gonzales

Health professional shortage areas are federally designated areas of the state that do not have enough physicians, dentists, mental health professionals, and other health professionals to adequately serve the population. The shortage of health professionals is especially acute in the city of El Paso and will be soon be exacerbated because of the Base Realignment and Closure (BRAC) decisions to increase the population at Fort Bliss by approximately 65,000 persons. This bill:

Requires the Texas Medical Board (TMB), on application, to grant a provisional license to practice medicine in a location with a health professional shortage or that is medically underserved to an applicant for a license who is licensed in good standing as a physician in another state.

Authorizes a person who holds a provisional license to only practice medicine in a location designated as a health professional shortage area or a medically underserved area.

Requires the provisional license applicant to have passed a national or other examination recognized by TMB relating to the practice of medicine within the number of attempts allowed, submit information to enable TMB to conduct a criminal background check as required by TMB, and be sponsored by a licensed person with whom the provisional license holder is authorized to practice.

Authorizes TMB to excuse an applicant for a provisional license from certain application requirements if TMB determines that compliance with the requirements constitutes a hardship to the applicant.

Provides that a provisional license expires on the earlier of the date TMB issues the provisional license holder a license or denies the provisional license holder's application for a license, or the 270th day after the date the provisional license was issued.

Hepatitis B Vaccination for Certain Students in Health Education—S.B. 291

by Senator Nelson—House Sponsor: Representative McReynolds

Current law requires students in certain health-related courses to receive a hepatitis B vaccination series prior to providing direct patient care. While intended to provide safety, this requirement may discourage some students from pursuing an education in health due to the expense and effort required to obtain a vaccination. This bill:

Authorizes that a rule adopted by the executive commissioner of the Health and Human Services Commission that requires a hepatitis B vaccination for students applies only to students enrolled in a course of study that involves potential exposure to human or animal blood or bodily fluids.

Emergency Contact Information and the Texas Physician Health Program—S.B. 292

by Senator Nelson—House Sponsor: Representative Susan King

As demonstrated during Hurricane Katrina, it may be necessary to contact critical personnel to help manage situations and treat victims during disasters. Current law does not require physicians to submit their emergency contact information to the Texas Medical Board (TMB) for use in times of emergency. Additionally, TMB currently

refers physicians with substance abuse or mental health issues to rehabilitation programs. However, certain barriers prevent physicians from entering treatment and improving their health. This bill:

Requires each license holding physician to submit to TMB telephone numbers, fax numbers, and e-mail addresses, if available and as appropriate, that TMB is authorized to use to contact the license holder in an emergency.

Provides that the information provided by a license holding physician is confidential and is not subject to disclosure.

Authorizes TMB, in the event of a public health emergency declared or invoked by the governor, the Department of State Health Services, or a federal agency, to release information provided by a license holding physician for the sole purpose of disseminating information to a license holder, a designated city, county, state, or federal public health or emergency management official, or the Federation of State Medical Boards.

Creates the Texas Physician Health Program (program) to promote physician and physician assistant wellness and treatment of all health conditions that have the potential to compromise the physician's or physician assistant's ability to practice with reasonable skill and safety, including mental health, substance abuse, and addiction issues.

Requires TMB to appoint a medical director for the program to provide clinical and policy oversight for the program.

Requires the president of TMB to appoint persons to serve on the governing board of the program, which will provide advice and counsel to TMB; establish policy and procedures for the operation and administration of the program; and adopt rules relating to the appointment of members to the governing board.

Requires the governing board to appoint physicians to the Physician Health and Rehabilitation Advisory Committee (committee) who have experience in disorders commonly affecting physicians or physician assistants and to adopt rules relating to the appointment of members to the committee.

Provides that the program is a confidential, nondisciplinary therapeutic program for physicians and physician assistants and is administratively attached to TMB.

Requires TMB to adopt rules and policies as necessary to implement the program and to define applicable guidelines for the management of substance abuse disorders, psychiatric disorders, and physical illnesses and impairments.

Requires that the program include provisions for continuing care, monitoring, and case management of potentially impairing health conditions; ongoing monitoring for relapse; and other physician and physician assistant health and rehabilitation programs to operate under an agreement with the program, using established guidelines to ensure uniformity and credibility of services throughout this state.

Requires that the program accept a self-referral from a physician or physician assistant and referrals from an individual, a physician health and rehabilitation committee, a physician assistant organization, a state physician health program, a hospital or hospital system licensed in this state, a residency program, TMB, or the physician assistant board.

Authorizes TMB or the physician assistant board, through an agreed order or after a contested proceeding, to require participation in the program by a specified physician or physician assistant as a prerequisite for issuing or maintaining a license.

Authorizes TMB or the physician assistant board to discipline a physician or physician assistant required to but does not participate in the program.

Requires that the program make a report to TMB or the physician assistant board regarding a physician or physician assistant if the medical director or the governing board determines that the physician or physician assistant poses a continuing threat to the public welfare.

Provides that the program account is a special account in the general revenue fund.

Requires TMB by rule to set and collect reasonable and necessary fees from program participants in amounts sufficient to offset the cost of administering the program.

Repeals portions of the Occupations Code regarding rehabilitation orders, including the responsibilities of private associations of physicians and physician assistants and audits performed to ensure that only qualified license holding physicians and physician assistants are subject to rehabilitation orders.

Information in Immunization Registry During a Disaster—S.B. 347

by Senator Nelson—House Sponsor: Representatives Kolkhorst and John Davis

Although allowed under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), current state law does not allow immunization records stored in ImmTrac, the state's confidential immunization registry, to be shared with other states during times of emergency. This rule unnecessarily causes Texans who must evacuate to another state during a hurricane, for example, to receive duplicative vaccinations. This bill:

Requires the Department of State Health Services (DSHS) by rule to develop guidelines to inform a parent, managing conservator, or guardian of each patient younger than 18 years of age that registry information is authorized to be released.

Requires that the immunization registry contain information on the immunization history that is obtained by DSHS for persons evacuated or relocated to this state because of a disaster.

Prohibits DSHS from retaining individually identifiable information about any person for certain reasons, including any person for whom consent for continued inclusion in the registry following the end of a disaster has not been received under or for whom a request to remove information from the registry has been received.

Authorizes DSHS, if DSHS determines that residents of this state have evacuated or relocated to another state in response to a disaster, to release registry data to the appropriate health authority of that state or to local health authorities in that state.

Authorizes DSHS to receive immunization information from a health authority of another state or from a local health authority in another state if DSHS determines that residents of that state have evacuated or relocated to this state in response to a disaster.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) (executive commissioner) by rule to determine the how long the information collected is required to remain in the immunization registry following the end of the disaster.

Requires DSHS to remove the immunization records collected from the registry on the expiration date of the registry as determined by the executive commissioner unless an individual or the child's parent consents in writing to continued inclusion of the person's information in the registry and to remove the information from the registry, if it is requested by the individual or child's parent in writing.

Requires the executive commissioner of HHSC to make every effort to enter into a memorandum of agreement with each state to which residents of this state are likely to evacuate in a disaster on the release and use of registry information to the appropriate health authority or local health authority of that state.

Provides that a person commits an offense if the person fails to remove a person's immunization information as required by this bill.

Delegation of Patients' Drug Therapies to Pharmacists—S.B. 381

by Senator Van de Putte—House Sponsor: Representative Hopson

Current law authorizes a physician to delegate certain tasks to a properly qualified and trained pharmacist acting under adequate physician supervision, including the performance of specific acts of drug therapy management authorized by the physician through the physician's order, standing medical order, standing delegation order, or other order or protocol. This bill:

Authorizes a physician to delegate to a qualified pharmacist the implementation or modification of a patient's drug therapy under a protocol, including the authority to sign a prescription drug order for dangerous drugs if the delegation follows a diagnosis, initial patient assessment, and drug therapy order by the physician; the pharmacist practices in a hospital, hospital-based clinic, or an academic health care institution; the hospital, hospital-based clinic, or academic health care institution in which the pharmacist practices has bylaws and a medical staff policy that permit a physician to delegate to a pharmacist the management of a patient's drug therapy; the pharmacist provides the name, address, and telephone number of the pharmacist and of the delegating physician on each prescription signed by the pharmacist; and the pharmacist provides a copy of the protocol to the Texas State Board of Pharmacy (TSBP).

Requires TSBP to provide on its website a list of pharmacists who are authorized to sign a prescription drug order, including the name of the pharmacist's delegating physician.

Requires TSBP, with the advice of the Texas Medical Board, to adopt rules that allow a pharmacist to implement or modify a patient's drug therapy pursuant to a physician's delegation.

Regulation of the Practice of Dental Assistants—S.B. 455

by Senators Shapiro and Uresti—House Sponsor: Representative Hopson et al.

An estimated 2.5 million Texans live in a dental health professional shortage area, according to The Kaiser Family Foundation. The 78th Legislature, Regular Session, attempted to reduce the number of underserved persons by enacting H.B. 3193 to authorize a licensed dentist to delegate the application of a pit and fissure sealant to a dental assistant if the dentist practices in an underserved area. This bill:

Authorizes a licensed dentist to delegate to a qualified and trained dental assistant acting under the dentist's general or direct supervision any dental act that a reasonable and prudent dentist would find is within the scope of sound dental judgment to delegate if the dental assistant holds the appropriate certificate.

Authorizes a dental assistant to perform any of the following delegated dental acts under the supervision, direction, and responsibility of the dentist: application of a pit and fissure sealant; coronal polishing, if the dental assistant holds a certificate; application of fluoride; making of dental x-rays, if the dental assistant holds a certificate; and provision of interim treatment of a minor emergency dental condition to an existing patient of the treating dentist, if the treating dentist delegates the procedure orally or in writing before the dental assistant performs the procedure.

Provides that a dental assistant is under the direct supervision of a dentist as long as the dentist is in the dental office, rather than in the treatment room, when the dental assistant performs the delegated service.

Requires the Texas State Board of Dental Examiners to issue a coronal polishing certificate to a dental assistant who qualifies.

Requires a dental assistant to complete six hours of continuing education each year in areas covering dental assistant duties to renew a certificate and a dental assistant holding two or more certificates to complete 12 hours of continuing education each year to renew all of the certificates.

Staffing and Employment Protection for Nurses—S.B. 476

by Senator Nelson et al.—House Sponsor: Representative Donna Howard et al.

Texas nurses must protect the health and safety of hospital patients; however, research shows that stressful working conditions, long shifts, and mandatory overtime contribute to an annual turnover rate of 18.2 percent. Many now recognize the direct correlation between nurse staffing policies and the quality of patient care and that nurses must have some authority in hospital decision making. This bill:

Provides that the legislature intends, in order to protect patients, support greater retention of registered nurses, and promote adequate nurse staffing, to establish a mechanism whereby nurses and hospital management are required to participate in a joint process regarding decisions about nurse staffing.

Requires the governing body of a hospital to adopt, implement, and enforce a written nurse staffing policy to ensure that an adequate number and skill mix of nurses are available to meet the level of patient care needed.

Requires that the policy include a process for requiring the hospital to give significant consideration to the nurse staffing plan recommended by the hospital's nurse staffing committee; implementing an official nurse services staffing plan that is based on the needs of each patient care unit and shift and on evidence relating to patient care needs; using the official nurse services staffing plan as a component in setting the nurse staffing budget; encouraging nurses to provide input to the committee relating to nurse staffing concerns; protecting from retaliation nurses who provide input to the committee; and ensuring compliance with rules adopted by the executive commissioner of the Health and Human Services Commission (HHSC).

Requires a hospital to establish a nurse staffing committee (committee) as a standing committee of the hospital, which will be composed of members who are representative of the types of nursing services provided in the hospital.

Requires the committee to develop and recommend to the hospital's governing body a nurse staffing plan; review, assess, and respond to staffing concerns expressed to the committee; and submit quality indicators, nurse satisfaction measures collected by the hospital, and evidence-based nurse staffing standards to the hospital's governing body.

Requires a hospital to annually report to the Department of State Health Services (DSHS) on whether the hospital's governing body has implemented the requirements of the bill.

Prohibits a hospital from requiring a nurse to work mandatory overtime, except during emergency events.

Provides that the refusal by a nurse to work mandatory overtime does not constitute patient abandonment or neglect.

Prohibits a hospital from suspending, terminating, or otherwise disciplining or discriminating against a nurse who refuses to work mandatory overtime; reports, requests, a nursing peer review committee determination; or refuses to engage in certain conduct.

Requires the executive commissioner of HHSC to adopt rules for DSHS as required by this bill.

Mammography Systems That Fail Certification Standards—S.B. 527

by Senator Nelson—House Sponsor: Representatives Kolkhorst and Laubenberg

Current law requires a facility with a mammography system that receives a Severity Level I violation from the Department of State Health Services (DSHS) to notify each patient who received a mammography during the 30 days prior to the date of the inspection that revealed the failure. This policy unnecessarily alarms women whose mammograms may have been accurate, breeds distrust in mammography facilities, and contributes to the declining mammography screening rate. This bill:

Requires a facility, if the facility's mammography system fails to meet DSHS certification standards and the failure is a Severity Level I violation under DSHS rules, to notify each patient on whom the facility performed a mammography during the period in which the system failed to meet DSHS's certification standards, rather than during the 30 days prior to the date of the inspection that revealed the failure.

Requires the facility to recommend that the patient, among other things, consult with the patient's physician regarding the need for another mammogram, rather than recommend that the patient have another mammogram performed at a facility with a certified mammography system.

Delegated Physician Assistant and Advanced Nurse Practitioner Authority—S.B. 532

by Senator Dan Patrick—House Sponsor: Representative Coleman

Texas has approximately 85 retail health clinics, and because of their convenient locations and extended office hours, the number of such clinics continues to grow. Retail clinics provide efficient service while also diverting patients with minor conditions from crowded hospital emergency rooms. Current law, however, limits the prescriptive authority of physician assistants (PAs) and advanced practice nurses (APNs) who practice in retail health clinics. This bill:

Authorizes a physician to delegate the carrying out or signing of a prescription drug order for a controlled substance to a physician assistant or advanced practice nurse if, among other things, the prescription, including a refill of the prescription, is for a period not to exceed 90 days, rather than 30 days.

Provides that a physician's authority to delegate the carrying out or signing of a prescription drug order is limited to four, rather than three, PAs or APNs or their full-time equivalents practicing at the physician's primary practice site or at an alternate practice site.

Provides that physician supervision is adequate if the delegating physician is on-site with the advanced practice nurse or physician assistant at least 10 percent, rather than 20 percent, of the hours of operation of the site each month that the physician assistant or advanced practice nurse is acting with delegated prescriptive authority and if the delegating physician is not prohibited by contract from seeing, diagnosing, or treating a patient for services provided by the physician assistant or advanced practice nurse under delegated prescriptive authority.

Authorizes the Texas Medical Board (TMB), if TMB determines that the types of health care services provided by a physician assistant or advanced practice nurse are limited in nature and duration and are within the scope of delegated authority and that patient health care will not be adversely affected, to waive certain requirements.

Requires TMB to adopt the rules necessary to implement the bill.

Transportation Safety Requirements for Child Care Providers—S.B. 572

by Senator Shapiro et al.—House Sponsor: Representative Branch

According to the Centers for Disease Control and Prevention, about 12,000 children ages zero to 19 die each year from unintentional injuries. For children ages five to 19, the leading cause of death is injury sustained while an occupant in a motor vehicle crash. Despite these statistics, Texas has no laws that require child care providers to follow specific safety procedures while transporting children. This bill:

Requires the Department of Family and Protective Services by rule to require an owner, operator, or employee of a day-care center, group day-care home, registered family home, child-care institution, foster group home, or agency foster group home who transports a child under the care of the facility whose chronological or developmental age is younger than nine to complete at least two hours of annual training on transportation safety.

Requires the executive commissioner of the Health and Human Services Commission to adopt the rules required by the bill.

Requirements for a Funeral Establishment License—S.B. 755

by Senator Van de Putte—House Sponsor: Representative Villarreal

A student of a postsecondary funeral services educational program must complete 10 embalmings to fulfill the program's requirements. Because current law prohibits a public postsecondary school from establishing on-campus embalming facilities, faculty members must locate and contact an alternative site at which students can complete the embalmings. This bill:

Exempts a funeral establishment located on the real property of a public junior college and operated in connection with an accredited educational program in funeral services offered by the junior college from the licensing requirement that a funeral establishment be located at a fixed place that is neither a tax-exempt property nor a cemetery.

Disciplinary Action Against a Licensed Nursing Facility Administrator—S.B. 806

by Senator Nelson—House Sponsor: Representatives Rose and Naishtat

The elderly and disabled persons who reside in nursing facilities require the highest level of care and protection. However, current law does not subject nursing facility administrators to enforcement actions for committing certain criminal offenses which would bar other nursing facility personnel from employment. This bill:

Authorizes the Department of Aging and Disability Services (DADS) to revoke, suspend, or refuse to renew a nursing facility administrator's license; assess an administrative penalty; issue a written reprimand; require participation in continuing education; or place an administrator on probation, after due notice and the opportunity for a hearing, on proof that the license holder has been convicted in a court of competent jurisdiction of an offense.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules and criteria related to this bill.

Prohibits a facility from employing an applicant until it has verified that the applicant is not designated in the health care facility employee misconduct registry, in addition to the nurse aide registry, for a finding concerning abuse, neglect, or mistreatment, or misappropriation of a health care facility consumer's property.

Requires a facility to annually search the nurse aide registry and the employee misconduct registry to determine whether any employee of the facility is designated in either registry as having abused, neglected, or exploited a resident or consumer of a facility or an individual receiving services from a facility.

Requires the commissioner of aging and disability services, if a finding of reportable conduct is the basis for an entry in the nurse aide registry and the entry is subsequently removed from the nurse aide registry, to immediately remove the record of reportable conduct from the employee misconduct registry.

Licensing and Regulation of Dentists and Other Dental Professionals—S.B. 887

by Senator Nelson—House Sponsor: Representative Zerwas

The practice and regulation of dentistry and dental assistants are governed by the Dental Practice Act. Currently, portions of the Dental Practice Act relating to licensing renewals and criminal penalties are unclear and inconsistent with other Texas statutes that regulate health professions. This bill:

Deletes existing text providing that a person is not eligible for appointment as a dentist or dental hygienist member of the State Board of Dental Examiners (TSBDE) if the person is a member of the faculty of a dental or dental hygiene school or of the dental or dental hygiene department of a medical school.

Prohibits a member of TSBDE from serving more than two consecutive full terms, rather than one six-year term.

Provides that an initial license expires on the 30th day after the date the license is issued if the holder of the license fails to pay the required license fee on or before that date.

Authorizes TSBDE by rule to establish procedures for the alternative informal assessment of administrative penalties for violations that do not involve the provision of direct patient care by a person licensed or regulated.

Authorizes a penalty to consist only of a monetary penalty that does not exceed \$1,000 for each violation and \$3,000 in one year.

Requires TSBDE by rule to adopt a standardized schedule of the penalties.

Provides that the assessment of a penalty is not valid unless the person against whom the penalty is assessed receives a notice of violation under certain conditions.

Provides that a person commits an offense if the person violates Section 256.001 (License Required), Occupations Code; Section 256.052 (License Required), Occupations Code; Subchapter D (Practice by License Holder), or Chapter 262 (Regulation of Dental Hygienists), Occupations Code; or is a dentist or dental hygienist and violates an injunction or cease and desist order issued under Subchapter B (Dental Hygiene Advisory Committee), Occupations Code.

Requires a dental assistant who holds a certificate of registration to display the person's current certificate of registration in each office in which the person makes dental x-rays.

Provides that an initial certificate of registration issued to a dental assistant expires on the 30th day after the date the certificate is issued if the holder of the certificate fails to pay the required certificate fee on or before that date.

Provides that an offense for a violation of Section 266.301 (d) (relating to prohibiting a dentist from knowingly prescribing, ordering, or receiving a dental prosthetic appliance that is to be prepared by an unregistered dental laboratory), Occupations Code, is a Class B misdemeanor.

Prescriptions Issued for Certain Controlled Substances—S.B. 904

by Senator Williams—House Sponsor: Representative McReynolds

In 2007, Section 1306.12, Title 21, Federal Code of Regulations, was amended to authorize a practitioner to issue multiple prescriptions for up to a 90-day supply. The purpose of this bill is to update Texas law so that it helps curb the abuse of prescription pain medications. This bill:

Authorizes a prescribing practitioner to issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled substance if each separate prescription is issued for a legitimate medical purpose by a prescribing practitioner acting in the usual course of professional practice; the prescribing practitioner provides written instructions on each prescription to be filled at a later date indicating the earliest date on which a pharmacy is authorized to fill each prescription; the prescribing practitioner concludes that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse; and the issuance of multiple prescriptions complies with other applicable state and federal laws.

Requires that a prescription and a prescription form for a controlled substance show certain information, including the earliest date on which a pharmacy is authorized to fill the prescription if the prescription is issued for a Schedule II controlled substance to be filled at a later date.

Authorizes the director of the Department of Public Safety of the State of Texas by rule to establish a procedure for the issuance of multiple prescriptions of a Schedule II controlled substance, among other actions.

Provides that Schedule IV includes carisoprodol.

Certification and Regulation of Pain Management Clinics—S.B. 911

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

There is a legitimate need for the distribution of powerful pain management medications to patients with severe illnesses such as cancer. However, some pain management clinics, known as "pill mills," engage in illegal activity by supplying prescription pain medications to intentional abusers and addicts. The purpose of this bill is to increase the accountability of pain management clinics. This bill:

Prohibits a pain management clinic (clinic) from operating in this state unless the clinic is certified.

Requires that a clinic be owned and operated by a medical director who is a physician who practices in this state under an unrestricted license.

Provides that a certificate expires on the second anniversary of the date it is issued.

Requires the Texas Medical Board (TMB) to adopt rules necessary to implement this bill, including rules to address personnel requirements for the clinic, standards to ensure quality of patient care, certificate application and renewal procedures and requirements, inspections and complaint investigations, and patient billing procedures.

Authorizes TMB to inspect a clinic as necessary to ensure compliance.

Requires TMB to investigate a complaint alleging a violation by a clinic or a physician who owns or operates a clinic.

Prohibits the operator of a clinic, an employee of the clinic, or a person with whom a clinic contracts for services from having been denied a license authorizing the person to prescribe, dispense, administer, supply, or sell a controlled substance; having held a license authorizing the person to prescribe, dispense, administer, supply, or sell a controlled substance that has been restricted; or having been subject to disciplinary action by any licensing entity for conduct that was a result of inappropriately prescribing, dispensing, administering, supplying, or selling a controlled substance.

Requires the operator of a clinic to be on-site at the clinic at least 33 percent of the clinic's total number of operating hours and review at least 33 percent of the total number of patient files of the clinic.

Provides that a violation of this bill is grounds for disciplinary action against a certified clinic or an owner or operator of a certified clinic.

Interactive Water Features and Fountains—S.B. 968

by Senator Royce West—House Sponsors: Representatives Truitt and Naishtat

Interactive water spray fountains and parks have become increasingly popular throughout the United States and abroad. When not properly maintained, spray fountain parks have been associated with outbreaks of certain illnesses. A number of such outbreaks of bacterial, viral, or parasitic illnesses from fountain parks have been reported in the United States and in other countries. Currently, Texas law does not provide for the regulation of such facilities or impose minimum operating standards. This bill:

Requires an owner, manager, operator, or other attendant in charge of an interactive water feature or fountain to maintain the water feature or fountain in a sanitary condition.

Prohibits the bacterial content of the water in an interactive water feature or fountain from exceeding the safe limits prescribed by certain standards.

Authorizes the Department of State Health Services (DSHS) by rule to adopt methods other than chlorination for the purpose of disinfecting interactive water features and fountains.

Authorizes a county, municipality, or DSHS to require that the owner or operator of an interactive water feature or fountain obtain a permit for operation of the water feature or fountain, to inspect an interactive water feature or fountain for compliance, and to impose and collect a reasonable fee in connection with a permit or inspection if the requirement is imposed by a county or municipality and certain criteria are met.

Reporting Requirements for Health Occupation Regulatory Agencies—S.B. 1058

by Senator Uresti—House Sponsor: Representative Coleman

State health boards license and regulate various health professions in Texas, respond to complaints against health professionals, and carry out investigations. Currently, these boards are not required to report their findings, making it impossible for the legislature to assess the efficacy of board actions. This bill:

Requires each agency to file a report with the state legislature that includes the number of persons regulated by the agency, the number of persons who became subject to regulation by the agency in the previous year, the number of

persons regulated by the agency by county, the number and a description of any complaints reported to and investigated by the agency, the amount of fees collected by the agency each year, the expenses of the agency, and any unfunded needs of the agency.

Storage, Maintenance, and Distribution of Mammography Records—S.B. 1082

by Senator Huffman—House Sponsor: Representative Laubenberg

Patients must have access to their historical mammography screening records in order to receive the most thorough, accurate, and economical breast cancer screenings possible. Without historical screening records, patients may be misdiagnosed or have to undergo additional screenings or other expensive procedures. This bill:

Authorizes money and security in the perpetual care account to be administered by the Department of State Health Services (DSHS) or the Texas Commission on Environmental Quality (TCEQ) for storage, maintenance, and distribution of mammography medical records.

Authorizes DSHS or TCEQ to use money in the perpetual care account to pay for measures to protect the health and safety of mammography patients by assuring mammography medical records are made available to affected patients.

Provides that the existence of the perpetual care account does not make DSHS or TCEQ 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 certain other costs related to meeting the requirements of this bill or of DSHS or TCEQ rules.

Confidentiality of Test Results of Compounded Product Samples—S.B. 1127

by Senator Van de Putte—House Sponsor: Representative Hopson

The Texas State Board of Pharmacy (TSBP), the agency responsible for overseeing the actions of pharmacists and pharmacies, randomly selects and tests samples that have been compounded by pharmacies to ensure quality and accuracy. Information collected during the testing of pharmacies' compounded products is considered to be public information. However, formulas and other processes that are used to create the compounded products are often trademarked and therefore proprietary. This bill:

Provides that reports, records, formulas, and test results of samples of products compounded by pharmacies obtained by TSBP may be provided to the pharmacy that compounded the product but otherwise are confidential and do not constitute public information.

Authorizes TSBP to disclose confidential information in a disciplinary hearing before TSBP or in a subsequent trial or appeal of a TSBP action or order, to a pharmacist licensing or disciplinary authority of another jurisdiction, or under a court order.

Requires TSBP to require a pharmacy to recall a compound product and authorizes TSBP to release the results of the test of the samples of the compounded product if TSBP determines that the tests results indicate a patient safety problem that may involve potential harm to a patient and the release of the test results is necessary to protect the public.

Requires TSBP to release the test results if a pharmacy is unable to or does not recall the compounded product within 48 hours after TSBP's request.

Confidentiality of Certain Health-Related Reports, Records, and Information—S.B. 1171

by Senator Nichols—House Sponsor: Representative McReynolds

Current law requires local health officials to report information about cases and suspected cases of communicable diseases to the Department of State Health Services (DSHS); however, DSHS is restricted from sharing such data with its local counterparts. This bill:

Provides that reports, records, and information received from any source furnished to a public health district, a health authority, a local health department, or DSHS that relate to cases or suspected cases of diseases or health conditions are confidential and authorized to be used only for the purposes of this bill.

Authorizes medical or epidemiological information to be released to medical personnel treating the individual, appropriate state agencies in this state or another state; a health authority or local health department in this state or another state; or federal, county, or district courts to comply with related rules relating to the control and treatment of communicable diseases and health conditions or under another state or federal law that expressly authorizes the disclosure of this information.

Authorizes only the minimum necessary information to be released, as determined by the health authority, the local health department, or DSHS.

Authorizes a judge of a county or district court to issue a protective order or take other action to limit disclosure of obtained medical epidemiological information before that information is entered into evidence or otherwise disclosed in a court proceeding.

Authorizes a test result to be released to a county or district court to comply with this bill or rules relating to the control and treatment of communicable diseases and health conditions.

Faculty Temporary Licenses to Practice Medicine—S.B. 1225

by Senator Huffman et al.—House Sponsor: Representative Eissler

The Texas Medical Board (TMB) is authorized to issue faculty temporary medical licenses to qualifying physicians who do not hold a license to practice medicine in this state. Temporary licenses allow such physicians to practice medicine solely within the confines of the medical school and its affiliates for the period of one year. However, current law excludes accredited graduate medical education programs operated by Texas hospitals and nonprofit health organizations from obtaining these temporary licenses. This bill:

Authorizes TMB to issue a faculty temporary license to practice medicine to a physician.

Requires the physician to be working full-time at an institutional sponsor of a graduate medical education program, a certified nonprofit health corporation affiliated with a graduate medical education program, or a certain institution.

Orthotist and Prosthetist Licensing Requirements—S.B. 1271

by Senator Uresti—House Sponsor: Representative Hopson

The manufacture of orthotics and prosthetics is regulated by the Department of State Health Services in accordance with federal law; Chapter 431 (Texas Food, Drug, and Cosmetic Act), Health and Safety Code; and Chapter 605 (Orthotists and Prosthetists), Occupations Code. Individuals who practice orthotics and prosthetics are currently required to obtain dual licenses under both Texas laws. This bill:

Provides that a person licensed to practice orthotics or prosthetics who measures, designs, fabricates, fits, assembles, adjusts, or services an orthosis or a prosthesis under an order from a licensed physician, chiropractor, or podiatrist for a specific patient is exempt from licensing as a device manufacturer under Chapter 431, Health and Safety Code.

Provides that a person licensed to practice orthotics or prosthetics who fabricates or assembles an orthosis or a prosthesis without an order from a licensed physician, chiropractor, or podiatrist for a specific patient is required to be licensed as a device manufacturer under Chapter 431, Health and Safety Code.

Certain Corrective Actions by the Texas Board of Nursing—S.B. 1415

by Senator Hegar—House Sponsor: Representative McReynolds

The Texas Board of Nursing (BON) is currently required to address minor violations made by nurses by either dismissing the case or pursuing disciplinary action against the nurse. Minor violations include failing to renew a license in a timely manner or failing to complete required continuing education courses and generally do not jeopardize patient safety as do more serious violations that necessitate disciplinary action. This bill:

Requires BON to determine the feasibility of conducting a pilot program designed to evaluate the efficacy and effect on the public's protection of BON deferral of disciplinary action against a licensed person in cases in which BON proposes to impose a sanction other than a reprimand or a denial, suspension, or revocation of a license.

Requires BON, if it determines the pilot program is feasible, to develop and implement the pilot program not later than February 1, 2011.

Authorizes BON, during the time the pilot program is implemented and for any action or complaint for which BON proposes to impose a sanction other than a reprimand or a denial, suspension, or revocation of a license, to defer final disciplinary action if the person conforms to conditions imposed by BON and if the person successfully meets the imposed conditions, dismiss the complaint.

Authorizes BON to treat a deferred disciplinary action taken against a nurse as a prior disciplinary action against the nurse when considering the imposition of a sanction for a subsequent violation.

Authorizes BON to impose a corrective action on a licensed person who violates a rule adopted under this bill.

Provides that corrective action is authorized to be a fine, remedial education, or any combination of a fine or remedial education; is not a disciplinary action; and is subject to disclosure only to the extent a complaint is subject to disclosure under Section 301.466 (Confidentiality), Occupations Code.

Requires BON by rule to adopt guidelines for the types of violations for which a corrective action is authorized to be imposed.

Authorizes the executive director of BON (executive director), if the executive director determines that a person has committed a violation for which a corrective action may be imposed, to give written notice of the determination and recommendation for corrective action to the person subject to the corrective action.

Authorizes the person to accept or reject in writing the executive director's determination and recommend corrective action.

Provides that if the person accepts the executive director's determination and satisfies the recommended corrective action, the case is closed.

Requires the executive director, if the person does not accept the executive director's determination and recommended corrective action as originally proposed or as modified or fails to respond in a timely manner, to dispose of the matter as a complaint under Subchapter J (Prohibited Practices and Disciplinary Actions), Occupations Code.

Requires the executive director to report periodically to BON on the imposed corrective actions.

Authority of a Community Health Center to Employ an Optometrist—S.B. 1476

by Senator Ellis—House Sponsor: Representative Coleman

Federally qualified health centers (FQHCs) are community-based organizations that provide comprehensive primary care and preventative services to patients regardless of their ability to pay. Currently, state law prohibits FQHCs from employing optometrists. FQHCs must instead contract with optometrists, which makes it more difficult to provide vision care services to patients. This bill:

Requires the Texas Optometry Board (TOB) by rule to certify a health organization to contract with or employ an optometrist or therapeutic optometrist if the organization applies for certification on a form approved by TOB and presents proof that the organization is a community health center.

Prohibits a community health center that contracts with or employs an optometrist or therapeutic optometrist from controlling or attempting to control the professional judgment of the optometrist or therapeutic optometrist.

Swimming Pool Safety Standards—S.B. 1732

by Senators West and Van de Putte—House Sponsor: Representative Harless

There have been incidents of children drowning in pools because of certain drain covers. This bill:

Requires the owner, manager, operator, or other attendant in charge of certain public swimming pools to comply with pool safety standards required to be adopted by the executive commissioner of the Health and Human Services Commission.

Disciplinary Actions Against a Pharmacy Technician—S.B. 1853

by Senator Van de Putte—House Sponsor: Representative Hopson

Current law requires the Texas State Board of Pharmacy (TSBP) to prove that a pharmacy technician has a drug dependency problem before TSBP can take any disciplinary action. This bill:

Authorizes TSBP to take disciplinary action if TSBP determines that the pharmacy technician applicant or registrant has committed certain acts, including developed an incapacity that prevents him or her from practicing with reasonable skill, competence, and safety to the public; performed duties in a pharmacy that only a pharmacist is authorized to perform; used alcohol or drugs in an intemperate manner that could endanger a patient's life; engaged in negligent, unreasonable, or inappropriate conduct when working in a pharmacy; violated a disciplinary order; been convicted or adjudicated of a criminal offense that requires registration as a sex offender; or been disciplined by a pharmacy or other health regulatory board for conduct substantially equivalent to conduct described by this bill.

Provides that a disciplinary action affecting the registration of a pharmacy technician trainee remains in effect if the trainee obtains registration as a pharmacy technician.

Authorizes TSBP to request a pharmacy technician, pharmacy technician applicant, pharmacy technician trainee, or pharmacy technician trainee applicant to submit to a mental or physical examination.

Requires TSBP, if the person refuses to submit to the examination, to issue an order requiring the person to show cause why the person will not submit to the examination and schedule a hearing on the order not later than the 30th day after the date notice of the order is served on the person.

Location Where Examinations for Interpreters May Be Conducted—S.B. 2420

by Senator Deuell—House Sponsor: Representative Naishtat

The Department of Assistive and Rehabilitative Services (DARS) is currently required to conduct examinations for deaf and hard of hearing interpreters in Austin at the DARS office, in other space owned by the state, or in other cities in space that can be obtained free of charge. This law has caused people to forgo interpreter certification because they were not able to travel to Austin to take an examination. This bill:

Requires DARS to conduct the interpreter examinations in a space, rather than in Austin at TCDHH's office or in other space owned or leased by the state, that can be obtained free of charge or at a facility selected in compliance with Section 2113.106 (State Facilities For Meetings; Conferences, and Examinations), Government Code.

Wireless Communication Device School Zone Bans—H.B. 55

by Representative Branch et al.—Senate Sponsor: Senator Carona

Recently, there has been an increase in the number of bans on the use of wireless communication devices in active school zones across the state, beginning with a ban passed by the City of Highland Park in November 2007. Several communities of varying size and population that have created such bans, which have resulted in a patchwork approach to safeguarding students and other pedestrians at critical times and places in communities throughout Texas. This bill:

Establishes a statewide approach to the bans to ensure consistency across communities while providing safeguards for students and other pedestrians.

Adds a provision to the Transportation Code to limit driver usage of a wireless communication device within an active school zone as long as there is proper signage, with certain exceptions related to operators of authorized emergency vehicles, and operators licensed by the Federal Communications Commission.

Prohibits a school bus operator from using a wireless communication device under any circumstance unless the vehicle is stopped.

Disaster Preparedness and Emergency Management—H.B. 1831

by Representative Corte et al.—Senate Sponsor: Senator Carona

The Division of Emergency Management of the Office of the Governor (GDEM) and state agencies have the task of collaborating and coordinating responsibilities during an emergency response. Legislation is needed to address certain issues that affect the state's ability to provide emergency relief, including evacuation and phased reentry, temporary home repairs, volunteer coordination and awareness, and agribusiness and public information awareness.

Current statute regarding emergency management is located in Chapter 418 (Emergency Management), Government Code. An enforcement mechanism does not exist for evacuation orders in the current statute. In addition, current law does not require implementation of a phased reentry plan into a declared disaster area. The Texas Department of Agriculture (TDA) is currently not required to prepare an emergency response plan for the agricultural community or business. Furthermore, agencies involved in emergency management are not currently required to disseminate information or report the effectiveness of their emergency response to the legislature. This bill:

Adds various enhancements and requirements for emergency management, including a state emergency plan annex that addresses initial response planning for providing essential population support supplies, equipment, and service during the first five days immediately following a disaster including fuel availability, backup power, clearance of debris, obtaining food, water and ice, and basic medical support.

Requires a public awareness plan to expand the information and referral network under Section 531.0312 (Texas Information Referral Network), Government Code, and improve the integration of volunteer groups and faith based organizations.

Requires a phased reentry plan (including a credentialing process) to govern the order in which particular groups of people are allowed to reenter previously evacuated areas.

Establishes a communications coordination group to facilitate interagency coordination and collaboration to provide efficient planning of communications support to joint, interagency, and intergovernmental task forces.

Develops processes and procedures for removing individuals who remain in an area that is under an evacuation order.

Requires a post disaster evaluation to be conducted to review the entities response to a disaster, identify areas of improvement, and issue an evaluation report.

Requires the development of an annex to the state emergency management plan to include provisions for medical special needs (for both long-term and short-term shelter operations) and regional plans for personnel surge capacity during disasters.

Requires the development of an annex to the state emergency management plan to include provisions for an agriculture emergency response plan.

Requires institutions licensed under Chapter 242 (Convalescent and Nursing Homes and Related Institutions), Health and Safety Code, and assisted living facilities licensed under Chapter 247 (Assisted Living Facilities), Health and Safety Code, to register with the Texas Information and Referral Network to identify people needing assistance if an area is evacuated.

Requires each electric utility to submit a report regarding infrastructure improvement and maintenance.

Adds provisions for in-casket identification of deceased people.

Provides that state employees who are emergency services personnel, who are not subject to the Federal Fair Labor Standards Act, are eligible to take compensatory time off during the 18-month period following the end of the work week in which the emergency compensatory time was accrued.

Authorizes state employees to receive overtime for all or part of the hours of compensatory time accrued during the declared disaster.

Provides for a coordinated response for the transaction of essential judicial functions in the event of a disaster, including the suspension of procedures for the conduct of any court proceeding affected by the disaster.

Requires certain water services providers ensure emergency operations during an extended power outage.

Sets forth regulations relating to the suspension of the unemployment compensation waiting period requirement during a disaster subject to a federal disaster declaration.

Requires certain critical governmental facilities to evaluate during renovations whether equipping the facility with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period.

Authorizes the Public Utility Commission (PUC) to require an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale generator, or power marketer to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to the natural disaster or other emergency.

Authorizes the temporary suspension of certain signage restrictions during a state of disaster.

Entitles a state employee who is emergency services personnel and who is deployed to a temporary duty station to conduct emergency or disaster response activities to reimbursement for the actual expense of lodging when there is no room available at the state rate within reasonable proximity to the employee's temporary duty station.

Establishes of a disaster and emergency education program which would require Department of State Health Services (DSHS) to create a Disaster and Emergency Education Program that must adhere to certain requirements.

Repeals Section 418.072 (Disaster Emergency Funding Board), Government Code, regarding the Disaster Emergency Funding Board and Chapter 2302 (Cogeneration), Government Code, regarding the State Cogeneration Council.

Ship Channel Security—H.B. 1871

by Representative Wayne Smith—Senate Sponsor: Senator Mike Jackson

In 2007, the 80th Legislature, Regular Session, enacted H.B. 3011, authorizing the creation of a ship channel security district, a public-private organization that is the first of its kind in the country to provide a robust security and communications environment around the Harris County region's vast intermodal and multimodal transportation hub. Harris County expects the owners of a majority of facilities in the proposed district to present a petition to the commissioners court to create a security district in the near future.

To facilitate this landmark effort, the county began engineering the design of the communications and security network to support the proposed district. In concert with the Texas Department of Transportation's (TxDOT) Houston district, the county proposed to use the state's existing transportation fiber optic network, right-of-way, and facilities. In return, the county would give the state access to video, information systems, and communications relating to critical infrastructure not currently accessible.

TxDOT has expressed concern that no specific statutory authority exists to allow TxDOT to grant the county use of its infrastructure for any purpose outside strictly transportation-related functions. The intent is for the legislation to apply only to projects supporting the proposed ship channel security district. This bill:

Authorizes a ship channel security district or a county whose commissioners court has created a ship channel security district to enter into an agreement with TxDOT to provide for use of TxDOT's facilities or property to aid security in the district.

Authorizes a county that has entered into an agreement with TxDOT for use of TxDOT's fiber optic network for transportation purposes to use the network to serve a project aiding security in a ship channel security district in the same manner as other transportation purposes unless the agreement precludes the use of the network for that purpose.

Reimbursement for Housing and Emergency Shelters During Evacuations—H.B. 1998

by Representative McCall—Senate Sponsor: Senator Gallegos

Federal law provides that cities are eligible for reimbursement of 75 percent of the expenses incurred for providing emergency shelter services during a federally declared disaster, but such expenses do not include salaries for public employees who work during evacuations or for the loss of revenue for the lost use of public facilities. Current state law authorizes the governor to assist political subdivisions that provide temporary housing for disaster victims by advancing, lending, or allocating certain funds; however, state law does not require the state to reimburse cities for providing emergency shelter for disaster victims during a state-ordered evacuation. This bill:

Authorizes the governor to assist a political subdivision that is the locus of temporary housing or emergency shelters for disaster victims to acquire sites necessary for temporary housing or emergency shelters and to do all things required to prepare the sites to receive and use temporary housing units or emergency shelters by taking certain actions.

Provides that a political subdivision that is the locus of temporary housing or emergency shelters for persons moved or evacuated by recommendation or order of the governor may be assisted by any resource available to the state to ensure the political subdivision receives an advance or reimbursement of all expenses incurred by the political subdivision associated with the use of public facilities for temporary housing or emergency shelters and of the amounts paid for salaries and benefits of personnel of the political subdivision who perform duties associated with the movement or evacuation of persons into, out of, or through the political subdivision.

Penalty for Soliciting Membership for a Criminal Street Gang—H.B. 2187

by Representative Moody et al.—Senate Sponsor: Senator Carona

Two related offenses exist under the Penal Code related to gang recruitment activity: coercing, soliciting, or inducing gang membership and soliciting membership in a criminal street gang. These offenses criminalize similar, but not identical, conduct related to initiation in a criminal street gang, and both offenses provide similar, but not identical, punishment for that conduct. These similarities can cause confusion in the enforcement of these laws. This bill:

Provides that a person commits a third degree felony organized crime offense if, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang, the person threatens the child or a member of the child's family with imminent bodily injury or causes bodily injury to the child or a member of the child's family.

Registration of Clients of Home and Community Support Services Agencies—H.B. 2558

by Representative Sylvester Turner—Senate Sponsor: Senator Mike Jackson

Home and community support services agencies provide home health, hospice, or personal assistance services in a client's residence, an independent living environment, or another appropriate location. This places persons who provide these services in a convenient position to help register clients who are homebound or have special needs with the 2-1-1 Texas Information and Referral Network, which assists emergency responders in locating these individuals in the event of a natural disaster. This bill:

Requires a home and community support services agency to assist client as necessary with registering for disaster evacuation assistance through 2-1-1 services provided by the Texas Information and Referral Network and to counsel clients as necessary regarding disaster preparedness.

Disaster Contingency Fund—H.B. 4102

by Representatives Eiland and Guillen—Senate Sponsor: Senators Carona and Lucio

Texas suffered numerous natural disasters over the past biennium. These disasters include Hurricanes Dolly, Gustav, and Ike, along with various wildfires and floods. The estimated total cost to state agencies and institutions of higher education from these disasters is nearly \$1.75 billion, and this estimate does not include costs to local governmental entities and personal and commercial property.

The Disaster Contingency Fund (DCF) was created by the 80th Legislature, Regular Session, 2007, because Federal Emergency Management Agency (FEMA) assistance is typically delayed. Although FEMA operations are out of Texas' control, Texas has a duty to ensure that the needs of residents of a disaster-affected area are addressed. The DCF could mitigate any delay in FEMA support by providing financial assistance to state agencies, local governments, and other eligible entities as a supplement to federal assistance; however, the legislature neglected to properly fund the DCF, making it ineffective for the emergency response.

Additionally, a natural disaster can impair school districts and create personnel, transportation, and facilities issues. Natural disasters can displace students to another campus within the same district or to another district. Although current Texas law contains some mechanisms to assist affected districts, most of those mechanisms are inadequate to meet the needs of the affected districts.

School district budgets are a product of student attendance numbers and property values. Natural disasters impact both, creating difficulty for districts in planning and rebuilding. This bill:

Ensures that appropriations are made to the disaster contingency fund.

Requires that payments made out of the fund be reimbursed by any entity that receives funding if they are then reimbursed by the federal government, an insurer, or another source for the same purposes.

Establishes special provisions for school districts located in a declared disaster area that have incurred disaster remediation costs.

Provides that for the two-year period following the date of the governor's initial declaration, the amount of attendance credits that must be purchased under Section 41.093 (Cost), Education Code, will be reduced by the amount of any disaster remediation costs paid by the district during that period for which the district does not anticipate reimbursement through insurance proceeds, federal disaster relief, or other sources.

Sets forth certain requirements for allowing the commissioner of education (commissioner) to adjust the average daily attendance (ADA) of a school district located within a declared disaster area, if the district experienced a decline in ADA that was reasonably attributable to the disaster.

Requires the commissioner to adjust the taxable value of property of a school district located within a declared disaster area as necessary to ensure that the district receives funding based as soon as possible on property values as affected by the disaster.

Provides for reimbursement of disaster remediation costs for a school district located within a declared disaster area for which the district does not anticipate other reimbursement.

Authorizes a district, during the two-year period following the date of the initial declaration of a state of disaster, to apply to the commissioner for reimbursement of disaster remediation costs paid during that period for which the district does not anticipate reimbursement through other sources.

Authorizes a district to seek reimbursement of disaster remediation costs paid on or after September 1, 2008.

Authorizes the commissioner to provide reimbursement from amounts appropriated for that purpose or from the Foundation School Program (FSP) if the commissioner determines that there are surplus appropriations for the FSP.

Authorizes a local board of trustees to delegate the authority to contract for replacement, construction, or repair of school equipment or facilities, if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.

Emergency Preparation Management—H.B. 4409

by Representative Taylor et al.—Senate Sponsor: Senator Mike Jackson

During the 2009 legislative interim the House Select Committee on Hurricane Ike Devastation heard public and invited testimony along the Texas coastline regarding the preparation, stabilization, and response of relief efforts. The testimony provided insight on how to improve the emergency preparation management. This bill:

Directs the General Land Office (GLO), the Texas Department of Transportation (TxDOT), and the Texas Department of Housing and Community Affairs (TDHCA) to solicit and enter into pre-event contracts for weather-related disaster response activities after a disaster.

Requires GLO to solicit and contract for debris removal from beaches and requires TxDOT to solicit and contract for debris removal from the state highway system.

Requires TDHCA to solicit and contract to provide temporary or emergency shelter or housing.

Directs that funds from the Disaster Contingency Fund may be used to pay for these contract services.

Requires state and local governmental entities, when constructing or renovating a critical governmental facility (CGF) or replacing major heating, ventilation, and air-conditioning equipment for a CGF, to evaluate whether equipping the CGF with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period.

Authorizes the entity to equip the facility with a combined heating and power system if the expected energy savings would exceed the expected costs.

Requires the commissioner of insurance to adopt rules relating to the implementation of the bill.

Restructures the revenues collected and deposited into the Catastrophe Reserve Trust Fund.

Authorizes the Texas Public Finance Authority to issue Class 1, Class 2, and Class 3 public securities on behalf of Texas Windstorm Insurance Association (TWIA). Provides that the public securities are not a debt of the state and therefore are not included in this analysis.

Eliminates premium tax credits resulting from certain assessments on insurers after a disaster which would no longer result in a negative fiscal impact to the general revenue fund.

Requires the Sunset Advisory Commission (SAC) to review TWIA, but does not subject the entity to abolishment.

Requires that the review be conducted as if the association were scheduled to be abolished September 1, 2015.

Requires TWIA to pay the costs incurred by the SAC upon receipt of a statement from the SAC.

Creates the windstorm insurance legislative oversight board to monitor TWIA and review proposed legislation.

Requires the legislative oversight board to produce a biennial report on the board's recommendations.

Requirement for Water Service Providers to Ensure Emergency Operations—S.B. 361

by Senators Dan Patrick and Nichols—House Sponsor: Representative Callegari

After Hurricane Ike, power outages caused limited to no availability of drinking water and effective waste water treatment in certain areas. Within 75 miles of the coast, there are 1,287 community water systems, 20 percent of which, serving approximately seven million people, were out of service for varying periods of time after the hurricane. A number of municipal utility districts in the area had generators; however, approximately 25 percent of those generators failed to function or ran out of fuel. Fourteen percent of the waste water lift stations in the affected area discharged into open streams, and nine days after the storm an estimated 250,000 residents in the area lacked access to running water. This bill:

Requires that an affected utility ensure the emergency operation of its water system during an extended power outage as soon as safe and practicable following the occurrence of a natural disaster and to submit to the Texas Commission on Environmental Quality (TCEQ), not later than March 1, 2010, an emergency preparedness plan that demonstrates the utility's ability to provide emergency operations for review and approval.

Requires TCEQ to inspect each affected utility to ensure that the utility complies with the approved plan, and authorizes TCEQ to grant a waiver from its standards of emergency operations if TCEQ determines that compliance will cause a significant financial burden on customers of the utility.

Authorizes an affected utility to adopt and enforce limitations on water use while the utility is providing emergency operations and sets forth confidentiality provisions on the information provided by an affected utility.

Requires an affected utility to submit, not later than November 1, 2009, to the appropriate county judge and certain other entities a copy of the affected utility's approved emergency preparedness plan, TCEQ's notification that the plan is accepted, information identifying the location and providing a general description of all water and wastewater facilities that qualify for critical load status, and emergency contact information for the affected utility.

Sets forth the procedures for determining whether the facilities of an affected utility qualify for critical load status under rules adopted by the Public Utility Commission of Texas.

Requires TCEQ, not later than December 1, 2009, to adopt standards of emergency operations and, as part of the rulemaking process, to conduct at least two hearings in Harris County.

Texas Fusion Center Duties—S.B. 379

by Senator Carona—House Sponsor: Representative Guillen

Shortly after September 11, 2001, Governor Perry announced the creation of the Texas Task Force on Homeland Security. The task force was composed of several individuals appointed by the governor to study and advise him on matters relating to homeland security, including emergency preparedness and response, facilitating coordination among agencies, and other related matters. The taskforce identified several issues to be addressed by state and local entities; however, the predominant theme of proposals revolved around communication and coordination.

From this taskforce the 78th Legislature, enacted H.B. 9, which created the Texas Infrastructure Protection Communications Center, now the Texas Fusion Center, to serve as the primary point of planning, coordination and integration of government communications capabilities to ensure effective response in the event of a homeland security emergency.

Recently the international border between Texas and Mexico has become an increasingly violent and dangerous place due mainly to Mexican drug cartels. These Mexican cartels use existing street gangs in Texas to extend their

reach into the United States and to sell narcotics. Due to this increased gang activity the legislature is seeking to receive a report from the Texas Fusion Center.

Additionally, The Texas Fusion Center has had difficulty receiving up-to-date and accurate information from state agencies and needs state coordination on intelligence in order to provide recent in-depth gang information to law enforcement. This bill:

Requires the gang section of the Texas Fusion Center to annually submit a report assessing the threat posed statewide by criminal street gangs that identifies strategies effective in deterring gang-related crime and gang involvement in human trafficking.

Requires the attorney general, the Department of Public Safety, the Texas Department of Criminal Justice, other law enforcement agencies, and juvenile justice agencies to provide, on request, certain information to the gang section of the Texas Fusion Center.

Makes federal rules governing criminal intelligence systems applicable to certain information received by the Texas Fusion Center.

Requires the first annual report regarding criminal street gangs to be submitted to the governor and the legislature no later than September 1, 2010.

Compiling Gang Intelligence Information—S.B. 418

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

Law enforcement agencies across the state deal with thousands of different criminal street gangs and their members. Gathering gang-related information may assist in dealing with these dangerous groups, such as providing invaluable information to law enforcement, which may even save the life of a law enforcement officer.

Currently, under Section 61.02 (Criminal Combination and Criminal Street Gang Intelligence Database; Submission Criteria), Code of Criminal Procedure, a law enforcement agency in Texas has the option to compile gang data into a local or regional database. If a law enforcement agency compiles the data, it must provide the information to the Texas Department of Public Safety (DPS) to be included in the statewide database. However, there is currently no requirement that local law enforcement agencies collect any data on gangs within their jurisdiction.

DPS operates and maintains a statewide database, the Texas Gang Database, which is housed in Austin. This database was established in 1999 and has the capability to receive, maintain, and share information provided by more than 1,000 law enforcement agencies in Texas. This bill:

Requires, rather than authorizes, a criminal justice agency and certain local law enforcement agencies to compile criminal information into an intelligence database for the purpose of investigating and prosecuting the criminal activities of criminal street gangs.

Requires DPS, not later than December 1, 2009, to enter into a memorandum of understanding with the United States Department of Justice or other appropriate federal departments or agencies to provide any person who enters or retrieves information from a criminal street gang intelligence database with training regarding certain federal operating principles and requires any person who enters or retrieves information from such a database to complete continuing education training on this material at certain intervals.

Emergency Medical Information Database—S.B. 652

by Senator Zaffirini—House Sponsor: Representative Frost

Texas lacks an efficient system for storing and accessing emergency contact and medical information. As a result, emergency response personnel face a difficult challenge when trying to locate next of kin in the case of a serious or fatal accident.

Current law authorizes a driver's license or identification card holder to write emergency contact or medical information directly on the back of the card, which is inefficient due to the limited space provided, often illegible handwriting, and outdated or worn information. This bill:

Requires the Texas Department of Public Safety (DPS) to maintain a record of the name, address, and telephone number of each individual identified as an emergency contact by the holder of a driver's license or personal identification certificate and a record of certain medical information provided to DPS in an application for an original driver's license or certificate, and to provide for the confidentiality and disclosure of such records.

Requires an application for an original, renewal, or duplicate driver's license or personal identification certificate to be designed to allow, but not require, the applicant to provide such information.

Requires the application to include a statement that describes the confidential nature of the information;

Requires DPS to establish and maintain on its website forms and procedures by which the holder of a driver's license or personal identification certificate may request that DPS add, amend, or delete specific emergency contact or medical information.

Requires DPS to implement the bill's provisions not later than January 1, 2010, using existing personnel.

Liability of Certain Guarantors Under a Residential Lease—H.B. 534

by Representatives Anchia and Thibaut—Senate Sponsor: Senator Carona

Under current provisions of the Property Code, a person other than a tenant who cosigns or guarantees a lease is potentially liable for the duration of a tenant's lease term and subsequent renewals of the lease. This bill:

Provides that a person other than a tenant who guarantees a lease is liable only for the original lease term except that a person is authorized to specify that the person agrees to guarantee a renewal of the lease.

Authorizes a person to specify in writing in an original lease that the person will guarantee a renewal of the lease only if the original lease states the last date, as specified by the guarantor, on which the renewal of the lease will renew the obligation of the guarantor; that the guarantor is liable under a renewal of the lease that occurs on or before that date; and that the guarantor is liable under a renewal of the lease only if the renewal involves the same parties as the original lease, and does not increase the guarantor's potential financial obligation for rent that existed under the original lease.

Does not prohibit a guarantor from voluntarily entering into an agreement at the time of the renewal of a lease, in a separate written document, to guarantee an increased amount of rent.

Does not release a guarantor from the obligations of the guarantor under the terms of the original lease or a valid renewal for costs and damages owed to the lessor that arise after the date specified by the guarantor in the original lease, if the costs or damages relate to actions of the tenant before that date or arise as a result of the tenant refusing to vacate the leased premises.

Late Fees Under a Residential Lease—H.B. 1109

by Representatives Anchia and Leibowitz—Senate Sponsor: Senator Carona

In 2007, the 80th Legislature, Regular Session, passed H.B. 3101, which was a comprehensive landlord-tenant reform bill intended to ensure fair business dealings between landlords and tenants. Key provisions of the bill included clarification of the instances in which a landlord may charge certain fees, including fees assessed for late payment of rent. With respect to late rental fees, H.B. 3101 was intended to ensure that a renter of a residential property had until at least the second day after the day rent was due to pay rent before incurring a late fee. Since passage of H.B. 3101, there has been some confusion as to the day on which a landlord may begin charging a residential tenant late fees. This bill:

Prohibits a landlord from charging a tenant a late fee for failing to pay rent unless the rent has remained unpaid one full day after the date the rent was originally due.

Minimum Habitability Standards of Multi-Family Rental Buildings—H.B. 1819

by Representative Bohac et al.—Senate Sponsor: Senator Ellis

Current law does not set minimum habitability standards for multi-family rental units in large cities. This bill:

Requires a municipality with a population of 1.7 million or more to adopt an ordinance to establish minimum habitability standards for multi-family rental buildings, including requiring maintenance of proper operating conditions.

Requires a municipality to establish a program for the inspection of multi-family rental buildings to determine whether the buildings meet the minimum required habitability standards.

Provides that the owner of a multi-family rental building commits a Class C misdemeanor if the owner violates an ordinance relating to the minimum habitability standards for multi-family rental buildings.

Establishing Title After Natural Disasters and Housing Reconstruction Pilots—H.B. 2450

by Representatives Eiland and Guillen—Senate Sponsor: Senator Lucio

Residents of an area affected by a natural disaster may have difficulty establishing title to their homes because they cannot locate proper documentation of such. This bill:

Authorizes an applicant for federally provided financial assistance administered by the Texas Department of Housing and Community Affairs (TDHCA) to repair or rebuild a home damaged by a natural disaster to establish ownership of the home through nontraditional documentation of title.

Requires the executive director of TDHCA to appoint a natural disaster housing reconstruction advisory committee to develop a natural disaster housing reconstruction plan to be used to develop housing reconstruction demonstration pilot programs for certain areas affected by recent natural disasters.

Enforcement of Orders Relating to Substandard Buildings by Municipalities—H.B. 2647

by Representatives Kent and Miklos—Senate Sponsor: Senator Deuell

Under Chapter 214 (Municipal Regulation of Housing and Other Structures), Local Government Code, municipalities have the authority to address substandard and dangerous housing structures by ordering that such buildings be repaired or demolished, by assessing penalties for failure to make repairs, and by imposing a lien against the property if the municipality incurs the cost of the repairs or demolition. Under Chapter 54 (Enforcement of Municipal Ordinances), Local Government Code, municipalities have the authority to order the repair of a building found to be in violation of an ordinance; however, the enforcement provisions to see that such orders are completed are limited. This bill:

Provides that an order issued under Section 54.036 (Functions) is enforceable in the same manner as provided in Section 214.001 (Authority Regarding Substandard Building).

Authority to Promote Affordable Housing Near Rail Systems—H.B. 2692 [VETOED]

by Representative Rodriguez et al.—Senate Sponsor: Senator Watson

Several municipalities in Texas, such as Dallas and Austin, have established commuter rail systems to address traffic issues. The property values of the areas surrounding these rail projects has increased substantially, displacing moderate-income or low-income families and individuals due to increased property taxes. Current law provides measures to certain municipalities by which to promote affordable housing in certain areas. This bill:

Provides an exception from the prohibition that a city adopt a requirement in any form that establishes a maximum sales price for a privately produced housing unit or residential building lot for a multifamily residential development under certain circumstances.

Financial Regulatory Agencies and Regulation of Residential Mortgage Lenders—H.B. 2774

by Representative Truitt—Senate Sponsor: Senator Wentworth

Certain sections in the Finance Code are not in compliance with the federal Secure and Fair Enforcement of (S.A.F.E.) Mortgage Licensing Act of 2008. The Department of Savings and Mortgage Lending (department) licenses and regulates mortgage brokers and loan officers. As part of its regulatory duties, the department informs the legislature when licensing statutes need revisions.

Currently, state financial regulatory agencies overseeing financial institutions are at a competitive disadvantage compared to their federal counterparts to attract experienced examiners and essential personnel. Allowing the financial regulatory agencies to become self-directed and semi-independent eliminates certain procedures that absorb an inordinate amount of time and resources. This bill:

Requires the savings and mortgage lending commissioner (commissioner) to participate in the Nationwide Mortgage Licensing System and Registry as provided by Chapter 180 (Residential Mortgage Loan Originators), Finance Code.

Authorizes the Finance Commission of Texas (finance commission) to adopt rules as required to carry out the intentions of the federal S.A.F.E. Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

Authorizes the finance commission on the commissioner's recommendation to adopt rules to promote a fair and orderly administration of the mortgage broker recovery fund (fund).

Sets forth the composition and powers and duties of the mortgage industry advisory committee.

Provides that certain persons are exempt from Chapter 156 (Mortgage Brokers), Finance Code.

Requires the individual, to be eligible to be licensed as a mortgage broker as an individual, to provide the commissioner with satisfactory evidence that the applicant satisfies certain criteria including that the individual is licensed in this state as an active general lines insurance agent or a limited lines insurance agent or holds an equivalent insurance license under the Insurance Code.

Requires a person, to be eligible to be licensed as a loan officer, to provide the commissioner with satisfactory evidence that the applicant satisfies certain criteria including that the person has successfully completed at least 60 hours of education courses approved by the commissioner; the person has successfully completed 30 hours of education courses approved by the commissioner if the applicant has 18 months or more of experience as a mortgage loan officer as evidenced by documentary proof of full-time employment as a mortgage loan officer with a person who is exempt; or is a person who meets the qualifications relating to the individual holding certain licenses in this state; or the person holds an active mortgage broker license.

Requires a person, to be eligible to be licensed as a loan officer, to:

- be an individual who is at least 18 years of age;
- be a citizen of the United States or a lawfully admitted alien;
- designate in the application the name of the mortgage broker sponsoring the loan officer;
- provide the commissioner with satisfactory evidence that the applicant satisfies one of the following: the person has successfully completed at least 60 hours of education courses approved by the commissioner; the person has successfully completed 30 hours of education courses approved by the commissioner under this section if the applicant has 18 months or more of experience as a residential mortgage loan originator as evidenced by documentary proof of full-time employment; or the person holds an active license as a residential mortgage loan originator under Chapter 157 (Registration of Mortgage Bankers), Finance Code, and has held that license for a minimum of one year;

- not have been convicted of a criminal offense that the commissioner determines directly relates to the occupation of a loan officer as provided by Chapter 53 (Consequences of Criminal Conviction), Occupations Code;
- satisfy the commissioner as to the individual's good moral character, including the individual's honesty, trustworthiness, and integrity;
- provide the commissioner with satisfactory evidence of having passed an examination, offered by a testing service or company approved by the finance commission, that demonstrates knowledge of the mortgage industry and the role and responsibilities of a loan officer; and
- not be in violation of Chapter 156, a rule adopted under that chapter, or any order previously issued to the individual by the commissioner.

Requires that financial requirements for holding a mortgage broker or loan officer license be met through participation in the fund.

Provides that a mortgage broker license is valid for a term of not more than two years and may be renewed on or before its expiration date if the mortgage broker provides the commissioner with satisfactory evidence that the mortgage broker maintains an active license in this state as an active general lines insurance agent or a limited lines insurance agent or holds an equivalent insurance license under the Insurance Code.

Provides that a loan officer license is valid for a term of not more than two years and may be renewed on or before its expiration date if the loan officer pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$275 and a recovery fund fee; and provides the commissioner with satisfactory evidence that the loan officer maintains an active license in this state as an active general lines insurance agent or a limited lines insurance agent or holds an equivalent insurance license under the Insurance Code.

Authorizes the commissioner to deny the renewal of a mortgage broker license or a loan officer license if the mortgage broker or loan officer is in default on a student loan administered by the Texas Guaranteed Student Loan Corporation, pursuant to Section 57.491 (Loan Default Ground For Nonrenewal of Professional or Occupational License), Education Code.

Provides that a mortgage broker license is valid for a term of not more than two years and may be renewed on or before its expiration date if the mortgage broker pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$375 and a recovery fund fee; has not been convicted of a criminal offense the commissioner determines is directly related to the occupation of a mortgage broker as provided by Chapter 53, Occupations Code; and provides the commissioner with satisfactory evidence that the mortgage broker has attended, during the term of the current license, continuing education courses in accordance with the applicable requirements of Chapter 180, Finance Code.

Provides that a loan officer license is valid for a term of not more than two years and may be renewed on or before its expiration date if the loan officer pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$275 and a recovery fund fee; has not been convicted of a criminal offense the commissioner determines is directly related to the occupation of a loan officer as provided by Chapter 53, Occupations Code; and provides the commissioner with satisfactory evidence that the loan officer has attended, during the term of the current license, continuing education courses in accordance with the applicable requirements of Chapter 180, Finance Code.

Requires a person, to be eligible to register as a registered financial services company, to pay an annual registration fee in an amount determined.

Authorizes the commissioner to require reimbursement in an amount not to exceed \$325 for each examiner a day for on-site examination or investigation of a mortgage broker if records are located out of state or if the review is considered necessary beyond the routine examination process.

Authorizes the commissioner, after notice and opportunity for hearing, to impose an administrative penalty on a person licensed under Chapter 156 who violates that chapter or a rule or order adopted under that chapter.

Authorizes the commissioner to also order disciplinary action after notice and opportunity for hearing against a licensed mortgage broker or a licensed loan officer if the commissioner becomes aware during the term of the license of any fact that would have been grounds for denial of an original license if the fact had been known by the commissioner on the date the license was issued.

Requires the commissioner to establish, administer, and maintain a mortgage broker recovery fund as provided by this subchapter.

Requires that the fund be used to reimburse residential mortgage loan applicants for actual damages incurred because of acts committed by a mortgage broker or loan officer who was licensed when the act was committed.

Authorizes the fund to be used at the discretion of the commissioner to reimburse expenses incurred to secure and destroy residential mortgage loan documents that have been abandoned by a current or former individual or entity under the regulatory authority of the Texas Banking Department.

Requires that payments from the fund be reduced by the amount of any recovery from the mortgage broker or loan officer or from any surety, insurer, or other person or entity making restitution to the applicant on behalf of the mortgage broker or loan officer.

Entitles the commissioner, as manager of the fund, to reimbursement for reasonable and necessary costs and expenses incurred in the management of the fund, including costs and expenses incurred with regard to applications filed.

Requires the applicant, on an application for an original license or for renewal of a license issued under Chapter 156, in addition to paying the original application fee or renewal fee, to pay a fee in an amount determined by the commissioner, not to exceed \$20.

Requires that the amount of money in excess of that amount, if the balance remaining in the fund at the end of a calendar year, is more than \$3.5 million, be available to the commissioner to offset the expenses of participating in and sharing information with the Nationwide Mortgage Licensing System and Registry in accordance with Chapter 180.

Sets forth statute of limitations on filing for recovery, procedures for recovery, and recovery limits for a residential mortgage loan applicant who is seeking to recover actual damages from the fund.

Provides that when the commissioner has paid an applicant an amount from the fund, the commissioner is subrogated to all of the rights of the applicant to the extent of the amount paid.

Requires the applicant to assign all of the applicant's right, title, and interest in any subsequent judgment against the license holder, up to the amount paid by the commissioner and that amount has priority for repayment in the event of any subsequent recovery on the judgment.

Requires that any amount, including interest, recovered by the commissioner on the assignment be deposited to the credit of the fund.

Provides that the failure of an applicant to comply with a provision relating to the fund or with a rule adopted by the finance commission relating to the fund constitutes a waiver of any rights.

Amends Title 2, Finance Code, by adding Chapter 16 (Financial Regulatory Agencies: Self-directed and Semi-Independent).

Defines "financial regulatory agency" and "policy-making body."

Authorizes any Act of the 81st Legislature that relates to a financial regulatory agency and that is inconsistent with the agency being self-directed and semi-independent to be implemented by the financial regulatory agency only on authorization by the policy-making body of the financial regulatory agency.

Requires a financial regulatory agency to submit to the policy-making body of the financial regulatory agency a budget annually using generally accepted accounting principles.

Requires that the budget, notwithstanding any other provision of law, including the General Appropriations Act, be adopted and approved only by the policy-making body of the financial regulatory agency.

Requires a financial regulatory agency to be responsible for all direct and indirect costs of the agency's existence and operation.

Prohibits the financial regulatory agency from directly or indirectly causing the general revenue fund to incur any cost.

Authorizes a financial regulatory agency, subject to any limitations in a financial regulatory agency's enabling legislation, to set the amounts of fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the functions of the financial regulatory agency and funding the budget.

Requires that all fees and funds collected by a financial regulatory agency and any funds appropriated to the financial regulatory agency be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company.

Requires the comptroller to contract with the financial regulatory agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers.

Requires each financial regulatory agency to periodically submit to the agency's policy-making body, as directed by the policy-making body, a report of the receipts and expenditures of the financial regulatory agency.

Requires the state auditor to enter into a contract and schedule with each financial regulatory agency to conduct audits, including financial reports and performance audits.

Requires the financial regulatory agency to reimburse the state auditor for all costs incurred in performing the audits and to provide to the governor a copy of any audit performed.

Requires a financial regulatory agency to keep financial and statistical information as necessary to disclose completely and accurately the financial condition and results of operations of the agency and to submit a report describing all of the agency's activities in the previous biennium and certain financial information to the legislature.

Authorizes a financial regulatory agency to enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the agency's affairs and for the attainment of the agency's purposes.

Prohibits any indebtedness, liability, or obligation of the financial regulatory agency incurred under this section from creating a debt or other liability of this state or another entity other than the financial regulatory agency or creating any personal liability on the part of the members of the policy-making body or the body's or agency's employees.

Authorizes a financial regulatory agency to:

- acquire by purchase, lease, gift, or any other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency;
- sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the financial regulatory agency determines is not necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions;
- construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency; and
- borrow money, as may be authorized from time to time by an affirmative vote of a two-thirds majority of the policy-making body of the financial regulatory agency, for a period not to exceed five years if necessary or convenient to the exercise of the financial regulatory agency's powers, rights, privileges, or functions.

Requires the office of the attorney general to represent a financial regulatory agency in any litigation.

Requires a financial regulatory agency, if the agency no longer has status as a self-directed semi-independent financial regulatory agency for any reason, to be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent financial regulatory agency.

Requires that ownership of any property or other asset acquired by a financial regulatory agency during the time the agency was a self-directed semi-independent financial regulatory agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, be transferred to this state if the agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason.

Sets forth provisions for due process, membership in the Employees Retirement System of Texas, gifts, and expenses for a financial regulatory agency and for expenses and compensation for members of the finance commission.

Requires the Credit Union Commission to have charge and control of the property known as the Credit Union Department Building and use of staff, equipment, and facilities of the department.

Repeals Sections 12.103 (Compensation of Employees of Department), 13.005(Compensation of Officers and Employers), 13.008 (Fees, Revenue, and Expenses; Audit), 14.053 (Compensation of Employees of Office), 14.060 (Financial Oversight), 15.104 (Fiscal Report), 15.207(c) (relating to requiring compensation and expenses to be in the amount set by legislative appropriation), 15.308 (Compensation of Employees), 15.408 (Collection of Money), 156.101(b) (relating to authorizing the commissioner to hire employees as necessary to administer this chapter) and (c) (relating to authorizing the commissioner to employ a general counsel, attorneys, investigators, and support staff), and 156.212(c) (relating to the license certificate of a mortgage broker) and (d) (relating to a loan officer license certificate) and 156.502(c) (relating to the balance remaining in the mortgage broker recovery fund), Finance Code.

Appropriates certain amounts from the general revenue fund to each financial regulatory agency to establish itself as a self-directed and semi-independent agency in a reasonable period.

Requires the financial regulatory agency to repay to the general revenue fund the appropriation made to the agency by certain dates and as funds become available.

Provides that the transfer of a financial regulatory agency to self-directed and semi-independent status and the expiration of self-directed and semi-independent status may not act to cancel, suspend, or prevent any debt owed to or by the financial regulatory agency; any fine, tax, penalty, or obligation of any party; any contract or other obligation of any party; or any action taken by the financial regulatory agency in the administration or enforcement of the agency's duties.

Requires each financial regulatory agency to continue to have and exercise the powers and duties allocated to the agency in the agency's enabling legislation.

Requires that the provisions of this bill be held invalid if the secretary of housing and urban development determines that any provision of Sections 1-27 and 29 of this Act fails to meet the requirements of the federal S.A.F.E. Mortgage Licensing Act of 2008 (Pub. L. No. 110-289), provided, however, the remainder of this bill or the application of the provision to other persons or circumstances is not affected.

Provides that, to the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

Regulation of Residential Mortgage Loan Originators—H.B. 2779

by Representative Truitt—Senate Sponsor: Senator Wentworth

The Secure and Fair Enforcement (S.A.F.E.) of Mortgage Licensing Act in 2008 requires the licensing, regulation, and registration of all residential mortgage loan originators in the United States by 2010. This federal legislation contemplates that states will adopt licensing and regulation legislation. However, if a particular state does not adopt legislation meeting the minimum requirements set out in the S.A.F.E. Mortgage Licensing Act, the secretary of the United States Department of Housing and Urban Development (HUD) will establish a system for that state.

The Conference of State Bank Supervisors drafted model legislation that meets all of the minimum standards and requirements of the S.A.F.E. Mortgage Licensing Act, and that model legislation was adopted through H.B. 10 (Solomons; SP: Averitt), 81st Legislature, Regular Session, 2009. While H.B. 10 provides that residential mortgage loan originators who are employees of a mortgage banker will be licensed by the savings and mortgage lending commissioner, the bill does not provide all of the details regarding the structure of the commissioner's regulation. H.B. 10 does not detail the application and renewal process for a license, how the commissioner should exercise enforcement and disciplinary authority, or the rights afforded to a residential mortgage loan originator. This bill:

Defines "disciplinary action" and redefines "finance commission," "mortgage banker," "residential mortgage," and "residential mortgage loan originator."

Requires a mortgage broker, to register under Chapter 157 (Registration of Mortgage Bankers), Finance Code, to file with the savings and mortgage lending commissioner (commissioner) a statement that contains a list of employees of the mortgage banker who are residential mortgage loan originators.

Provides that Chapter 157 does not apply to a subsidiary of a federally insured bank, savings bank, savings and loan association, Farm Credit System Institution, or credit union; the state or a governmental agency, political subdivision, or other instrumentality of the state, or an employee of the state or a governmental agency, political subdivision, or instrumentality of the state who is acting within the scope of the person's employment.

Requires a mortgage banker to include a notice to a residential mortgage loan applicant with an application for a residential mortgage loan, and sets forth the language of the notice.

Authorizes the savings and mortgage lending commissioner (commissioner) to revoke the registration of a mortgage banker after considering a complaint filed under Chapter 157 if the commissioner concludes that the mortgage banker has engaged in an intentional course of conduct to violate federal or state law or has engaged in an intentional course of conduct that constitutes improper, fraudulent, or dishonest dealings or has engaged in a negligent course of conduct exhibited through pattern or practice.

Authorizes the finance commission to adopt rules under this chapter as required to carry out the intentions of the federal S.A.F.E. Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

Prohibits an employee of a mortgage banker from acting in the capacity of a residential mortgage loan originator unless the employee is licensed and enrolled with the Nationwide Mortgage Licensing System and Registry and complies with other applicable requirements of Chapter 180 (Residential Mortgage Loan Originators), Finance Code, and rules adopted by the finance commission under that chapter.

Requires an employee of a mortgage banker, to be eligible to be licensed as a residential mortgage loan originator, to satisfy the commissioner as to the employee's good moral character, including the employee's honesty, trustworthiness, and integrity, not be in violation of Chapter 157 or a rule adopted under that chapter, and provide the commissioner with satisfactory evidence that the employee meets the qualifications provided by Chapter 180.

Requires that an application for a residential mortgage loan originator license (license) be in writing, under oath, and on the form prescribed by the commissioner.

Requires that an application for a license be accompanied by an application fee in an amount determined by the commissioner, not to exceed \$500.

Requires that each license have a unique identifier as provided by Chapter 180.

Provides that a license issued under Chapter 157 is valid for one year and is authorized to be renewed on or before its expiration date.

Requires that an application for renewal of a license meet all of the standards and qualifications for license renewal under Chapter 180.

Requires the commissioner to issue a license or a renewal license to an applicant if the commissioner determines that the applicant meets all requirements and conditions for the license.

Authorizes the commissioner to deny the renewal application for a license for the same reasons and grounds on which the commissioner could have denied an original application for a license.

Prohibits a person whose license has expired from engaging in activities that require a license until the license has been renewed.

Authorizes a person whose license has not been renewed before January 1 but who is otherwise eligible to renew a license, and does so before March 1, to renew the license by paying the commissioner a reinstatement fee in an amount that is equal to 150 percent of the required renewal fee.

Requires the commissioner, if the commissioner declines or fails to issue or renew a license, to promptly give written notice to the applicant that the application or renewal, as appropriate, was denied.

Requires the applicant or person, before the applicant or a person requesting the renewal of a license may appeal a determination to a district court, to file with the commissioner, not later than the 10th day after the date on which

notice is received, an appeal of the ruling requesting a time and place for a hearing before an administrative law judge designated by the commissioner.

Provides that a person whose application for a license has been denied is not eligible to be licensed for a period of two years after the date the denial becomes final, or a shorter period determined by the commissioner after evaluating the specific circumstances of the person's subsequent application.

Authorizes the finance commission to adopt rules to provide conditions for which the commissioner may shorten the time for eligibility for a new license.

Authorizes the commissioner to issue probationary and provisional licenses.

Requires the finance commission by rule to adopt reasonable terms and conditions for probationary and provisional licenses.

Requires each mortgage banker to file an annual call report that entails the condition of the mortgage banker and the mortgage banker's operations, including financial statements and production activity volumes with the commissioner or the commissioner's authorized designee on a form prescribed by the commissioner or authorized designee.

Authorizes the commissioner to conduct an inspection of a person licensed as a residential mortgage loan originator as the commissioner determines necessary to determine whether the person is complying with applicable rules.

Requires the finance commission by rule to provide guidelines to govern an inspection or investigation, including rules to determine the information and records of the licensed residential mortgage loan originator to which the commissioner may demand access during an inspection or an investigation, and establish what constitutes reasonable cause for an investigation.

Authorizes the commissioner, during an investigation, to issue a subpoena to require a person to give a deposition, produce documents, or both.

Authorizes the commissioner, after notice and opportunity for a hearing, to impose an administrative penalty on a person licensed as a residential mortgage loan originator under this chapter who violates Chapter 157 or a rule or order adopted under that chapter.

Provides that an appeal of an administrative penalty is considered to be a contested case.

Authorizes the commissioner to also order disciplinary action against a licensed residential mortgage loan originator, after notice and opportunity for a hearing, if the commissioner, during the current term of the license, becomes aware of any fact that would have been grounds for denial of an original license if the fact had been known by the commissioner on the date the license was granted.

Authorizes the commissioner, if the commissioner has reasonable cause to believe that a licensed residential mortgage loan originator has violated or is about to violate Section 157.024 (Disciplinary Action; Cease and Desist Order), Finance Code, to issue without notice and hearing an order to cease and desist continuing a particular action or an order to take affirmative action, or both, to enforce compliance with Chapter 157.

Authorizes the commissioner by order, based on the findings of fact, conclusions of law, and recommendations of the administrative law judge, to find that a violation has occurred or not occurred.

Provides that if a hearing is not requested not later than the 30th day after the date on which an order is made, the order is considered final and not appealable.

Authorizes the commissioner, after giving notice, to impose against a residential mortgage loan originator who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of the violation.

Authorizes the commissioner, in addition to any other remedy provided by law, to institute in district court a suit for injunctive relief and to collect the administrative penalty.

Authorizes the commissioner, if a residential mortgage loan originator fails to pay an administrative penalty that has become final or fails to comply with an order of the commissioner that has become final, in addition to any other remedy provided under law, on not less than 10 days' notice to the residential mortgage loan originator, to without a prior hearing suspend the residential mortgage loan originator's license.

Provides that the suspension continues until the residential mortgage loan originator has complied with the administrative order or paid the administrative penalty.

Prohibits the residential mortgage loan originator, during the period of suspension, from originating a residential mortgage loan.

Authorizes an order of suspension to be appealed.

Authorizes an order revoking the license of a residential mortgage loan originator to provide that the person is prohibited, without previously obtaining written consent of the commissioner, from engaging in the business of originating or making residential mortgage loans; otherwise affiliating with a person for the purpose of engaging in the business of originating or making residential mortgage loans; and being an employee, officer, director, manager, shareholder, member, agent, contractor, or processor of a mortgage banker, mortgage broker, or mortgage broker loan officer.

Authorizes the commissioner, on notice and opportunity for a hearing, to suspend the license of a residential mortgage loan originator if an indictment or information is filed or returned alleging that the person committed a criminal offense involving fraud, theft, or dishonesty.

Authorizes the commissioner to order a residential mortgage loan originator to make restitution for any amount received by that person in violation of Chapter 157.

Authorizes the commissioner to employ an enforcement staff to investigate and prosecute complaints made against residential mortgage loan originators licensed under this Chapter 157.

Entitles the applicant or license holder, if the commissioner proposes to suspend or revoke a license of a residential mortgage loan originator or if the commissioner refuses to issue or renew a license to an applicant for a license or person requesting a renewal of a license, to a hearing before the commissioner or an administrative law judge who is required to make a proposal for decision to the commissioner.

Provides that an individual aggrieved by a ruling, order, or decision of the commissioner has the right to appeal to a district court in the county in which the hearing was held.

Authorizes a residential mortgage loan applicant injured by a violation of Chapter 157 by a residential mortgage loan originator to bring an action for recovery of actual monetary damages and reasonable attorney's fees and court costs.

Authorizes the commissioner, the attorney general, or a residential mortgage loan applicant to bring an action to enjoin a violation of this chapter by a residential mortgage loan originator.

Provides that a person does not violate Chapter 157 with respect to an action taken or omission made in reliance on a written notice, written interpretation, or written report from the commissioner unless a subsequent amendment to this chapter or a rule adopted under this chapter affects the commissioner's notice, interpretation, or report.

Provides that on disbursement of mortgage proceeds to or on behalf of the residential mortgage loan applicant, the residential mortgage loan originator who assisted the applicant in obtaining the residential mortgage loan is considered to have completed the performance of the loan originator's services for the applicant and owes no additional duties or obligations to the applicant with respect to the loan.

Provides that a person commits an offense if the person is an employee of a mortgage banker, is not exempt under Chapter 157, and acts as a residential mortgage loan originator without first obtaining a license required under that chapter.

Authorizes the commissioner, if the commissioner has reasonable cause to believe that a person who is not licensed or exempt under Chapter 157 has engaged, or is about to engage, in an act or practice for which a license is required, to issue, without notice and hearing, an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with Chapter 157.

Requires the savings and mortgage lending commissioner to enforce Subtitle B (Loans and Financed Transaction), Title 4 (Regulation of Interest, Loans, and Financed Transactions), Finance Code, relating to the regulation of persons registered or licensed under Chapter 157.

Mortgage Fraud—H.B. 2840

by Representatives Solomons and Gutierrez—Senate Sponsor: Senator Averitt

The 80th Legislature, Regular Session, 2007, enacted H.B. 716 to address rising concerns regarding residential mortgage fraud. The effects of mortgage fraud on the residential lending industry range from monetary losses incurred by financial companies to criminal and administrative actions. Consumers consequently suffer higher loan rates and fees, stolen identities, and, quite possibly, impaired credit ratings. These losses increase the cost of financing for consumers and increase the risk to all participants in the mortgage process. Through this legislation, law enforcement and the Texas Department of Housing and Community Affairs (TDHCA) will have additional tools to fight fraudulent conduct in the mortgage lending process. This bill:

Redefines "authorized governmental agency" to include TDHCA.

Provides that the residential mortgage fraud task force consists of certain persons or their appointees, including a representative of TDHCA.

Provides that Section 555.051 (Information Sharing Among Certain Agencies), Government Code, applies only to information held by or for certain state agencies, including TDHCA, that relates to the possible commission of corporate fraud or mortgage fraud by a person who is licensed or otherwise regulated by any of those state agencies.

Provides that a person commits an offense if the person intentionally or knowingly makes a materially false or misleading written statement in providing an appraisal of real property for compensation.

Requires certain agencies, including TDHCA, to assist a prosecuting attorney of the United States or of a county or judicial district of this state, a county or state law enforcement agency of this state, or a federal law enforcement agency in the investigation of an offense under this section involving a mortgage loan.

Review of Deeds and Right of Redemption After Certain Foreclosures—H.B. 3479

by Representative Gallego—Senate Sponsor: Senator Uresti

Under current law, county clerks are required to file any deed brought to the clerk's office by a seller or buyer of real property, without reviewing the validity of the transaction and title to the property. There have been reports of frivolous deed filings and fraudulent Internet sales of property in certain counties.

Currently, if a homeowners' association forecloses on a home for unpaid assessments, the property owner is the only person with the right to redeem the property. The lender or mortgage company may have the right to redeem the property after foreclosure if the restrictive covenants provide that the association's lien is subordinate to that of the lender's lien; otherwise, the lender may not be permitted to redeem the property and retain its lien position. This bill:

Authorizes the county clerk in certain counties to send an instrument conveying real property for filing to the county attorney for review to determine whether certain platting requirements have been satisfied.

Authorizes the lienholder of record, in addition to the property owner, to redeem the property from any purchaser at a sale foreclosing a property owners' association's assessment lien.

Certain Actions Taken Relating to the Repair of Residential Rental Property—S.B. 1448

by Senator Royce West—House Sponsor: Representative Thompson

Poor maintenance of residential and commercial lease properties in the state occasionally result in death or injury to occupants, even after municipal citations have been served. Under current law, a leaseholder must endure a lengthy and expensive process to address violations of the local municipal health and safety code. This bill:

Deletes language prohibiting a justice court from ordering a landlord to take reasonable action to repair or remedy a condition for which the landlord is liable to the tenant.

Requires a justice court in which a suit is filed by a tenant requesting relief regarding a repair or remedy to conduct a hearing on the request not earlier than the sixth day after the date of service of citation and not later than the 10th day after that date.

Prohibits a justice court from awarding a judgment to a tenant, including an order of repair, that exceeds \$10,000, excluding interest and costs of court.

Establishes that an appeal of a judgment of a justice court takes precedence in county court, and authorizes the appeal to be held at any time after the eighth day after the date the transcript is filed in the county court.

Establishes that an owner of real property who files a notice of appeal of a judgment of a justice court to the county court perfects the owner's appeal and stays the effect of the judgment without the necessity of posting an appeal bond.

Requires the Texas Supreme Court, not later than January 1, 2010, to adopt rules of civil procedure applicable to orders of repair issued by a justice court.

Smoke Detectors for Persons With a Hearing-Impairment Disability—S.B. 1715

by Senator West et al.—House Sponsor: Representative Giddings

Currently, Chapter 92 (Residential Tenancies), Property Code, requires landlords to install smoke detectors, but only those which would alert a hearing person. S.B. 1715 would protect apartment or multifamily-housing residents who are deaf or hard of hearing. This bill:

Requires that a smoke detector, if requested by a tenant as an accommodation for a person with a hearing-impairment disability or as required by law as a reasonable accommodation for a person with a hearing-impairment disability, be capable of alerting a hearing-impaired person in the bedrooms it serves.

Prohibition of Practices of Low Income Housing Development Owners—S.B. 1717

by Senator West—House Sponsor: Representative Yvonne Davis

Federal rules regarding residential developments that receive tax credits require that "good cause" to evict a tenant or take a tenant's property be established by a judicial ruling. Existing state law permits personal property to be seized and a temporary eviction, or "lockout," of tenants without judicial authorization. S.B. 1717 conforms state law with the federal rules and also provides a measure for obtaining information regarding the number of vacant units in housing developments receiving financial assistance from the state or federal government or that is subject to a land use restriction agreement. This bill:

Requires the Texas Department of Housing and Community Affairs (TDHCA) by rule to require the housing sponsor of a multifamily housing development that receives financial assistance from the state or federal government or that is subject to a land use restriction agreement to submit a quarterly report to TDHCA that identifies the number of vacant units in the development at the time of the report and the number of days each unit has been vacant.

Requires TDHCA to provide each member of the legislature, on request of that member, a report that disaggregates the information collected in the quarterly reports.

Prohibits the owner of a development supported with a housing tax credit allocation from locking out or threatening to lock out any person residing in the development except by judicial process, with certain exceptions, or from seizing or threatening to seize the personal property of any person residing in the development except by judicial process unless the resident has abandoned the premises.

Insurance for Autistic Children—H.B. 451

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

Current law requires insurers to cover expenses associated with autism for children between the ages of three and six. H.B. 451 expands coverage of children with autism from the time that they are diagnosed until they are nine years old. This bill:

Requires a health benefit plan to provide coverage to an enrollee who is diagnosed with autism spectrum disorder from the date of diagnosis until the enrollee is 10 years old.

Information Regarding Eligibility for the Children's Health Insurance Program—H.B. 582

by Representative Dukes—Senate Sponsor: Senator Van de Putte

The State Kids Insurance Program (SKIP) was created to provide insurance coverage for dependent children of state employees who do not qualify for the Children's Health Insurance Program (CHIP) or Medicaid. If approved for SKIP, the monthly premium for coverage is only \$15 or \$25, based on family income and the number of individuals in the family, among other factors. However, current law does not require the Employees Retirement System of Texas (ERS) to notify or inform state employees that their children may be eligible for CHIP or Medicaid when SKIP coverage ends due to termination or leave from employment. This bill:

Requires the board of trustees of ERS to establish procedures by which the parent or guardian of a child no longer eligible for dependent child coverage under SKIP due to an employee's termination of state employment is informed that the child may be eligible to receive similar benefits under CHIP or Medicaid and is provided information regarding how to apply for benefits under those programs by the former employing state agency.

Compensation of Certain Persons by a Domestic Insurance Company—H.B. 651

by Representative Darby—Senate Sponsor: Senator Harris

Currently, Texas domestic insurers are required to annually have their board of directors separately approve the compensation of all persons who are employees of the corporation and who earn over \$100,000 per year. Salaries have increased over the years and the number of persons on this list has grown significantly for most companies. Thus, each year it is a time-consuming and burdensome process to go through all personnel records to prepare for the annual board meeting. This law has been periodically amended to reflect the items and the natural increases in compensation and inflation. This section of the Insurance Code was amended in 1979 to increase the salary requirement from \$20,000 to \$45,000 and again in 1999, to \$100,000. This bill:

Increases from \$100,000 to \$150,000 the amount above which a domestic insurance company is prohibited from paying in any year as compensation or emolument to an individual, firm, or corporation, when added to any compensation or emolument paid to the person by an affiliated domestic insurance company, unless such payment is first authorized by a vote of the company's board of directors or a committee of the board that has the duty to authorize the payments.

Health Benefit Plan Coverage for Prosthetic and Orthotic Devices—H.B. 806

by Representative Gallego et al.—Senate Sponsor: Senator Zaffirini

The costs associated with the purchase and the repair or replacement of prosthetic and orthotic devices are high, and many insurance or health benefit plans provide limited, if any, coverage for such devices. This bill:

Requires a health benefit plan to provide coverage for prosthetic and orthotic devices and related services.

Certain Information Included on Pharmacy Benefit Identification Card—H.B. 1138

by Representative Shelton et al.—Senate Sponsor: Senator Wendy Davis

To fill a prescription covered under a health benefit plan, a pharmacist needs certain information about an individual's plan. If the needed information is not included on the individual's pharmacy benefit identification card, the pharmacist is required to call the health benefit plan provider to verify the information needed. Current law does not require all of the information needed by the pharmacy to be included on a pharmacy benefit identification card. This bill:

Requires additional information to be included on a pharmacy benefit identification card provided by an issuer of a health benefit plan, and requires certain information be included on the front of the card.

Extended Enrollment Period in Group Benefits Program for Retiring Teachers—H.B. 1191

by Representative Flores—Senate Sponsor: Senator Lucio

Current law requires retiring teachers to decide whether to enroll for continued coverage under the Texas Public School Employees Group Benefits Program of the Teacher Retirement System of Texas (TRS) on the date that the person retires. This provision does not provide retiring teachers with an adequate amount of time to research different insurance options, including options within the private sector. This bill:

Authorizes retiring teachers to select any coverage for which the person is otherwise eligible on any date that is on or after the date the person retires and on or before the 90th day after that date and during any other open enrollment periods for retirees set by TRS by rule.

Coverage for Cardiovascular Disease Screenings and Bariatric Surgery—H.B. 1290

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

Certain preventive medical screenings provide early detection and diagnosis of cardiovascular disease, but such tests are often costly and not covered by insurance.

While the significant financial and health impacts of obesity are well known, certain insurers do not provide coverage for bariatric surgery, also known as gastric bypass surgery. The Teacher Retirement System of Texas, Medicaid, and Medicare provide coverage for bariatric surgery; however, the Employees Retirement System of Texas (ERS) does not. This bill:

Requires certain health benefit plans to provide coverage of up to \$200 for certain screening tests for atherosclerosis, or hardening of the arterial walls due to plaque build-up, and abnormal artery structure and function every five years.

Requires the board of trustees of ERS to develop a cost-neutral or cost-positive plan for providing bariatric, or weight loss, surgery coverage for elected or appointed state officials and state employees eligible to participate in the state's group benefits program.

Disclosure of Information Relating to Annuity Contracts—H.B. 1293 [VETOED]

by Representative Eiland—Senate Sponsor: Senator Ellis

In 2007, the Texas Legislature enacted the model laws of the National Association of Insurance Commissioners (NAIC) to prevent unfair and deceptive sales practices in the sale of annuities. The model laws require agents to determine the suitability of a particular annuity for an individual consumer before it is sold. NAIC has also established model regulations providing standards for the disclosure of certain critical information to consumers relating to the benefits and limitations of annuity contracts to protect consumers and to provide consumer education. This bill:

Requires the commissioner of insurance to adopt buyer's guides, including but not limited to the buyer's guides published by NAIC, for consumers who are considering purchasing an annuity contract or certificate.

Requires an applicant for an annuity contract or certificate to receive a disclosure document that includes certain information and the appropriate buyer's guide.

Requires insurers to provide annuity contract owners with a report, at least annually, on the status of the contract and containing certain information.

Sets forth provisions relating to waiver of surrender charges under a contract when the contract holder exchanges a contract for another annuity contract by certain insurers, and sets forth the notice requirements of an offer to waive surrender charges.

Training and Continuing Education for Agents Licensed to Sell Annuities—H.B. 1294

by Representative Eiland—Senate Sponsor: Senator Ellis

Annuities are complex insurance products; however, insurance agents who sell annuities are not required to complete or maintain any annuity-specific training or education that would enable them to sell such products in a manner that is fair and beneficial to consumers. This bill:

Requires insurance agents licensed to sell annuities to complete four hours of training relating to annuities before soliciting individual consumers for the purpose of selling annuities.

Requires insurance agents licensed to sell annuities to complete four hours of continuing education annually that specifically relate to annuities.

Prohibits an insurance agent from using a senior-specific certification or professional designation that implies that the agent holds a special certification or has specialized training in advising or servicing seniors regarding purchasing or selling a life insurance or annuity product for which the agent is ineligible or has not actually earned or obtained.

Use of Information Technology by Health Benefit Plans—H.B. 1342

by Representatives Menendez and Thompson—Senate Sponsor: Senator Harris

Health care providers and patients often find it frustrating that they do not have direct and instant access to the patient's insurance coverage information, including the insured's deductible, copayment, and covered benefits and services. The use of information technology by health benefit plan providers to provide such information would help relieve any confusion and frustration for physicians and patients relating to the accessibility of such information. This bill:

Requires health benefit plan providers to use information technology that provides a participating provider or enrollee with real-time information at the point of care concerning the enrollee's copayment and coinsurance, applicable deductibles, covered benefits and services, and estimated total financial responsibility for the care.

Sets forth exceptions to and waivers of the requirements for use of information technology by certain health benefit plans and certain health care providers.

Coverage for Preexisting Conditions for TRS-ActiveCare Enrollees—H.B. 1364

by Representative Eissler—Senate Sponsor: Senator Averitt

The federal Health Insurance Portability and Accountability Act (HIPAA) provides for the portability of health insurance coverage by requiring health benefit plans to provide coverage for preexisting conditions so long as the employee applies for coverage within 63 days of termination of coverage by another qualifying health benefit plan. HIPAA allows nonfederal governmental plans to opt out of many of its provisions, so long as adequate notice is given to participants enrolled in the plan and to the appropriate federal agency.

In 2005, the Texas Legislature passed a law clarifying that, at a minimum, school district employee health benefit plans are required to provide coverage for preexisting conditions pursuant to the state statutes that mirror the related HIPAA provisions. At the time, the legislation excluded the state plan for public school employees administered by the Teacher Retirement System of Texas (TRS), known as TRS-ActiveCare, because TRS had not opted out of any federal HIPAA provisions. Since that time, TRS has chosen to opt out of certain provisions of HIPAA, although it has not yet opted out of the provisions relating to coverage for preexisting conditions. This bill:

Removes a provision excluding certain group health benefit coverage for school district employees from the state HIPAA provisions that require coverage of preexisting conditions in certain situations.

Capital Stock and Surplus Requirements for Certain Insurance Companies—H.B. 1476

by Representative Sheffield—Senate Sponsor: Senator Fraser

Under current law, property casualty insurance companies are required, as a measure of financial solvency, to have \$2 million in the amount of capital stock and surplus combined. Recent disasters and events highlight the need to ensure the solvency of insurance carriers in Texas. This bill:

Requires an insurance company to have capital stock in an amount of at least \$2.5 million and surplus in an amount of at least \$2.5 million.

Sets forth deadlines by which insurance companies organized under Chapter 822 (General Incorporation and Regulatory Requirements for Insurance Companies Other than Life, Health, or Accident Insurance Companies), Insurance Code, that on September 1, 2009 had less than the minimum amount of capital and surplus required for a newly incorporated company to engage in the kinds of insurance business for which an insurance company holds a certificate of authority in this state are required to achieve prescribed increases in their capital.

Requires an insurance company that on September 1, 2009 had less the minimum amount of capital and surplus required for a newly incorporated company to immediately increase the amount of its capital and surplus to an amount equal to the required amount of capital and surplus under certain conditions.

Review of License Examinations for Insurance Agents—H.B. 1757

by Representative Thompson—Senate Sponsor: Senator Van de Putte

Insurance products often require outreach by agents in order to be sold and can be difficult to sell and explain to customers. The state requires licensing of agents who sell lines of insurance, but passage rates on examinations for insurance agents vary significantly from year to year, often without the Texas Department of Insurance (TDI) knowing what may or may not contribute to passage rates for agents and how those passage rates affect different demographics. This bill:

Requires the commissioner of insurance (commissioner) or, at the commissioner's discretion, a vendor under contract with TDI, to review a license examination if, during any 12-month period beginning on September 1 of a year, that examination exhibits an overall pass rate of less than 70 percent for first-time examinees.

Requires TDI to collect demographic information, including, race, gender, and national origin, from an individual taking a license examination subject to this Act.

Requires TDI to compile an annual report based on the review of license examinations.

Requires that the report indicate whether there was any disparity in the pass rate based on demographic information.

Authorizes the commissioner by rule to establish procedures as necessary to collect necessary demographic information and ensure that a review of a license examination is conducted and the resulting report is prepared.

Requires the commissioner to deliver the report to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each year, with the first report delivered not later than December 1, 2010.

Reserve Standards for Credit Life and Credit Accident and Health Insurance—H.B. 1761

by Representative Thompson—Senate Sponsor: Senator Van de Putte

In 2003, Texas adopted the 2001 Commissioner's Standard Ordinary Mortality Table as it relates to the minimum reserve requirements for life insurance; however, the minimum reserve requirements applicable to credit life insurance and credit accident and health insurance still rely on outdated standards implemented over 30 years ago. This bill:

Updates the minimum reserve requirements applicable to credit life insurance and credit accident and health insurance by requiring the commissioner of insurance to adopt rules based on certain mortality or disability tables.

Standard Ranking of Physicians by Health Benefit Plans—H.B. 1888

by Representative John Davis et al.—Senate Sponsor: Senator Duncan

Currently, there is no standard process by which to rank physicians, and there is no process for disputing a health insurance company's ranking of a physician. Consumers rely on these rankings to choose higher-quality and more efficient health care providers. This bill:

Sets forth the standards required regarding certain physician ranking by health benefit plans.

Sets forth the duties of physicians and health benefit plan issuers.

Requires the commissioner of insurance to adopt rules necessary to implement these standards.

Provides sanctions and disciplinary actions for health benefit plan issuers that violate these standards or rules relating to the standards.

70/10 Standard Applied to Annuities With Fixed Maturity Dates—H.B. 1919

by Representative Kent et al.—Senate Sponsor: Senator Ellis

Currently, annuities with optional maturity dates follow the 70/10 standard, which sets the maturity date as the later of the next anniversary of the annuity contract that follows the annuitant's 70th birthday or the 10th anniversary of the contract. Carriers often set the maturity dates of annuities with fixed maturity dates artificially high, such as 115 years of age, and then charge high surrender fees to consumers who try to liquidate the asset when the annuitant has died before the maturity date. This bill:

Requires that annuities with fixed maturity dates follow the 70/10 standard.

Refund of Excess Unearned Premiums—H.B. 1975

by Representative Hancock—Senate Sponsor: Senator Lucio

Before 2005, a premium finance company was required to refund any credit due to the insured customer in the amount of \$1 or more. Recognizing that the cost of issuing such refund checks averaged approximately \$5, and that 25 percent of those checks were never cashed, H.B. 2965 was enacted during the 79th Legislature, Regular Session, 2005, to increase from \$1 to \$5 the amount at which a premium insurance finance company is required to refund unearned premiums. However, H.B. 2965 changed only one of the two Insurance Code provisions governing the refund amount, applying the increased refund amount to those instances in which the credit resulted from the customer's prepayment of the policy premium but not to those instances in which the customer's credit resulted from default on an installment payment. This bill:

Provides that if the amount of the excess unearned premiums is less than \$5, the insured is not entitled to a refund.

Insurance Coverage for Amino Acid-Based Elemental Formulas—H.B. 2000

by Representative McCall—Senate Sponsor: Senator Van de Putte

Amino acid-based elemental formulas are made from individual, non-allergenic amino acids, unlike regular milk or soy-based formulas that contain complete proteins, and are often the only thing an infant or child born with allergies or gastrointestinal conditions can properly digest. Currently, the Insurance Code does not require private insurers to cover amino acid-based elemental formula. This bill:

Requires certain insurers to provide coverage for amino acid-based elemental formulas, regardless of the formula delivery method, that are used for the diagnosis and treatment of certain disorders.

Penalties Used for THIRP Premium Assistance—H.B. 2064

by Representative Smithee et al.—Senate Sponsor: Senator Averitt

A number of Texas consumers may qualify for coverage by the Texas Health Insurance Risk Pool (THIRP) but cannot afford to pay the premiums.

Current law requires that health maintenance organizations (HMOs) and preferred provider organizations (PPOs) that do not pay a clean claim on or before the date the HMO or the PPO is required to make a determination or adjudication of the claim pay a penalty to the physician or provider making the claim in addition to the contracted rate owed on the claim. H.B. 2064 provides a mechanism by which more funds are made available to THIRP to offer discounted premiums on a sliding scale. This bill:

Requires an HMO or PPO to pay the entire penalty relating to a clean claim to the physician or provider who submitted the claim, except for any interest, which is required to be paid to THIRP.

Requires that THIRP offer discounted premiums on a sliding scale based on financial need.

Requires the board of directors of THIRP to collect penalty payments and interest paid by HMOs and PPOs and authorizes the board to use those funds only to finance premium discounts.

Required Receipt of Political Contributions from Certain Carriers—H.B. 2065

by Representative Gallego—Senate Sponsor: Senator Duncan

Current law requires a statewide officeholder, a member of the legislature, or certain specific-purpose committees to refuse a political contribution that is received during the period beginning on the 30th day before the date a regular legislative session convenes and continuing through the 20th day after the date of final adjournment. The law provides that a contribution made by mail is not considered received during that period if it was placed with postage prepaid and properly addressed in the United States mail before the beginning of the period; however, the law does not address the use of common or contract carriers. This bill:

Provides that a contribution made by United States mail or by common or contract carrier is not considered received during that period if it was properly addressed and placed with postage or carrier charges prepaid or prearranged in the mail or delivered to the contract carrier before the beginning of the period.

Disciplinary Actions Against Title Insurance Companies—H.B. 2353

by Representative Hughes—Senate Sponsor: Senator Estes

Current law sets the statute of limitations for enforcement actions for lines of insurance at five years from the date the conduct occurred or within two years of the date the conduct was discovered by or became known to the Texas Department of Insurance. The law does not apply to title insurance carriers, so an enforcement action can be brought against a title insurance company at any time. This bill:

Amends Section 2551.001(c), Insurance Code, as effective April 1, 2009, to include Section 81.001 (Limitations Period for Certain Disciplinary Actions) among the provisions of this code that apply to a title insurance company.

Requirements for County Mutual Insurance Companies—H.B. 2449

by Representative Eiland—Senate Sponsor: Senator Lucio

Current law requires the commissioner of insurance (commissioner) to make recommendations relating to an insurer's amount of required capital and surplus and to provide evidence on which those recommendations are based. Most insurance companies are subject to risk-based capital, which recognizes that insurers vary in size, exposure, and types of risks assumed. Risk-based capital indexes the amount of capital a particular insurer needs based on its own unique risk profile. The commissioner currently has authority to adopt risk-based capital regulations for most other insurers based upon any of the following risks: the nature and type of risks the insurer underwrites; the

premium volume for the insurer; the composition, quality, and liquidity of an insurer's investments; fluctuations in the market value of securities held by an insurer; and the adequacy of an insurer's reserves. Currently, certain specialty companies that write business only in Texas, including county mutual insurance companies, do not have capital stock and are not subject to these higher financial solvency requirements of risk-based capital. This bill:

Authorizes a county mutual insurance company that, as of September 1, 2001, and continuously thereafter, appointed managing general agents, created districts, or organized local chapters to manage a portion of the company's business independent of all other business of the company to continue to operate in that manner and to appoint and contract with one or more managing general agents in accordance the Insurance Code only if the company cedes 85 percent or more of the company's direct and assumed risks to one or more reinsurers, and has a private passenger automobile insurance business with a market share of not greater than five percent or that is predominantly nonstandard.

Requires such a company to file, for each managing general agent, district, or local chapter program, the rating information required by the commissioner by rule.

Requires each managing general agent, district, or local chapter program to be treated as a separate insurer for the purposes of relating to prohibited discrimination by an insurer, rates, rating territories, and premium refund for certain personal lines of insurance.

Requires a company that cedes 85 percent or more of the company's direct and assumed risks to one or more nonaffiliated reinsurers to maintain an amount of unencumbered surplus, or guaranty fund and unencumbered surplus, equal to the greater of \$2 million or five percent of the company's recoverable for reinsurance after taking full credit against the recoverable as otherwise permitted for premium payable to ceding insurers, net of any ceding commission due the company; collateral held, letters of credit and security trusts that secure the collection of the reinsurance; and reinsurance through reinsurers whose financial strength is rated "A" or better by the A.M. Best Company, Incorporated, or another nationally recognized statistical rating organization acceptable to the commissioner.

Requires the commissioner by rule to adopt a transition period for insurance companies to meet certain requirements and for the pro rata elimination of any deficiencies in the required amounts.

Requires that the transition period be for a period of not less than five years.

Training Requirements for the Sale of Complex Insurance Products—H.B. 2456

by Representative Eiland—Senate Sponsor: Senator Watson

Under current law, licensed insurance agents are required to complete 30 hours of continuing education training every two years. However, specific training requirements are needed for agents who sell complex insurance products. The Texas Department of Insurance (TDI) has received numerous complaints from consumers who have been sold an inappropriate insurance plan. Upon investigation, TDI discovered that lack of knowledge on the part of the insurance agents responsible for the transaction was a contributing factor to the problem. This bill:

Amends Insurance Code, by adding Chapter 4008 (Agent Certification and Education Programs for Complex Insurance Products)

Authorizes the commissioner of insurance (commissioner) to adopt rules requiring an agent who holds a license issued under the Insurance Code to be certified, through specific education, training, examination, and experience requirements before an agent may sell a product or product line designated by the commissioner.

Requires the commissioner, in adopting rules under Chapter 4008, to designate the products or product lines that may not be sold without certification, and specify the reasons why it is necessary that the sale of a designated product or product line requires education, experience, or examination.

Authorizes the commissioner by rule to specify any precertification education or experience that must be completed before a designated product or product line may be sold by an agent; whether an agent must complete a precertification examination concerning the designated product or product line the agent intends to sell; whether an agent certified under Chapter 4008 must complete specific continuing education to maintain the certificate; and whether, and if so, how frequently, an agent certified under Chapter 4008 must periodically retake the examination to maintain the certificate.

Requires the commissioner by rule to establish whether the certification requirements established under Chapter 4008 for sale by an agent of a designated product or product line apply only to an agent who, as of the effective date of the certification requirement, does not hold the underlying agent license required to sell that product or product line; or to each licensed agent who engages in the sale of that product or product line.

Requires the rules to specify the date by which the agent must comply with the certification requirements.

Requires TDI to issue a certificate to an agent if TDI determines that the agent has submitted a properly completed certification application to TDI in a form acceptable to TDI; has completed, within the 12-month period preceding the date of the certification application, all requirements for the certification required by rules adopted under this Chapter 4008; and has not committed an act for which a license or certification may be denied.

Sets forth provisions for the expiration and renewal of a certificate.

Authorizes the commissioner to accept an examination administered by a testing service, as provided under Subchapter B (Administration of Examination by Testing Service), Chapter 4002 (Examination of License Applicants), to satisfy an examination requirement required by rule under Chapter 4008.

Authorizes an individual who is required under rules adopted under Chapter 4008 to hold a certificate to sell a designated product or product line to use continuing education programs to satisfy the annual continuing education requirements under this subsection.

Requires TDI to administer continuing education and precertification training programs required by rules adopted under Chapter 4008 and to administer such programs in a manner consistent with the administration of continuing education programs under Subchapter C (Continuing Education Programs).

Authorizes TDI, in addition to any other remedy available for a violation of the Insurance Code, another insurance law of this state, or a rule of the commissioner, to take certain actions, including denying an application for an original license or a certificate issued under Chapter 4008; suspending, revoking, or denying renewal of a license, or a certificate issued under Chapter 4008; or requiring a license holder to qualify, or re-qualify if the agent has already qualified, for a certificate to sell a product or product line designated by rule under Chapter 4008.

Insurance Agent License for Certain Vendors of Portable Electronic Devices—H.B. 2569

by Representative Hancock—Senate Sponsor: Senator Eltife

In 2001, the 77th Texas Legislature created a specialty insurance agent license for telecommunications equipment vendors under Chapter 4055 (Specialty Agents), Insurance Code. Since that time, telecommunications devices and similar communication technology offered to consumers have changed. This portion of the Insurance Code does not

include a definition for "vendor," nor does it recognize the growth in the number of retail outlets that sell portable electronic devices. This bill:

Redefines "customer"; defines "portable electronic devices" and "vendor"; and deletes the definition of "telecommunications equipment."

Authorizes the commissioner of insurance (commissioner) to issue a specialty license to a vendor, rather than a retail vendor of telecommunications equipment, who complies with Subchapter F (Portable Electronic Vendor License), Chapter 4055, Insurance Code.

Provides that a specialty license issued to a vendor authorizes the vendor and any employee or authorized representative of the vendor to offer the type of coverage specified in Subchapter F at each location at which the vendor engages in business.

Requires the commissioner to impose an annual license fee for a specialty license issued under Subchapter F and requires the commissioner to set the license fee in an amount reasonable and necessary to cover the costs of administering that subchapter, not to exceed \$5,000.

Authorizes a vendor licensed under Subchapter F and the vendor's employee and authorized representative to act as an agent for an authorized insurer in connection with the sale and use of portable electronic devices and related services only with respect to insurance coverage provided to customers that covers portable electronic devices against one or more certain conditions, or the provision of any other coverage the commissioner approves as meaningful and appropriate in connection with the use of portable electronic devices or related services.

Authorizes an agent who holds a license to engage in the business of property and casualty insurance or a substantially equivalent insurance license and who is appointed by the insurer that insures a vendor to provide the commissioner-approved materials and to conduct the training for the program that is required for an individual to act on behalf of a specialty license holder.

Requires the commissioner, by rule, to establish a procedure under which a person holding a license as a telecommunications equipment vendor specialty agent may convert that license to a portable electronic device vendor specialty agent license without further qualification and authorizes the commissioner to adopt rules to establish a reasonable period for the agent to comply with the new requirements.

Regulation of Stipulated Premium Insurance Companies—H.B. 2570

by Representative Hancock—Senate Sponsor: Senator Mike Jackson

Current law sets forth the amount of capital and capital stock that a stipulated premium insurance company is required to have in order to be incorporated, in addition to limiting the amount of life insurance coverage issued by a stipulated premium insurance company. This bill:

Increases the required amount of a stipulated premium company's capital stock from \$15,000 to \$200,000 and the required amount of surplus from \$7,500 to \$75,000.

Provides that the capital stock amount may be decreased to an amount less than \$200,000 only to avoid insolvency.

Prohibits a stipulated premium company from insuring one life for more than \$25,000, rather than \$15,000, in certain situations.

Liability Insurance Closed Claim Reports—H.B. 2877

by Representative Sheffield—Senate Sponsor: Senators Fraser and Lucio

The Texas Legislature established the closed claim report due to an absence of reliable information concerning liability insurance claims. The data used in the preparation of a closed claim report includes closed commercial liability claims involving bodily injury that are submitted on the quarterly closed claim reports for the following lines of insurance: general liability, medical professional liability, other professional liability, commercial automobile liability, and the liability portion of commercial multi-peril insurance. The required reporting amounts have not been amended for 16 years and the adjustments are needed in the reporting amounts to reflect current economic trends more accurately. This bill:

Requires an insurer, not later than the 10th day after the last day of the calendar quarter in which a claim for recovery under a liability insurance policy is closed, to file with the Texas Department of Insurance (TDI) a closed claim report if the indemnity payment for bodily injury under the coverage is \$75,000 or more.

Requires an insurer to file with TDI a summary closed claim report for a claim for recovery under a liability insurance policy if the indemnity payment for bodily injury under the coverage is less than \$75,000 but more than \$25,000.

Authorizes TDI to use a statistical reporting agency to reconcile the data.

Notification Regarding Automatic Insurance Premium Payments—H.B. 3221

by Representative Hancock—Senate Sponsor: Senator Van de Putte

Current law allows for notification of an increase in payment amounts for automatic insurance premium payments made through electronic funds transfer accounts only by printed format. After receiving a printed notice, the policyholder must then return to the insurer a written notification of an objection to the increase. Additional methods of notice are needed to alleviate delays and to allow for more efficient communication between the insurer and the insured. This bill:

Prohibits an insurer receiving automatic premium payments through withdrawal of funds from a person's account, including an escrow account, as authorized by that person to pay premiums on insurance coverage provided through that insurer, from increasing the amount of funds to be withdrawn from the account to pay premiums on that coverage unless the insurer, not later than the 30th day before the effective date of the increase in the premium payment amount, notifies the person of the increase by mailing a notice through the United States Postal Service.

Requires that the notice include the insurer's toll-free telephone number, mailing address, and electronic mail address, if applicable, through which the person is authorized to object to the increase.

Provides that an objection made by the policyholder through a telephone call, mail, or electronic mail constitutes a valid objection.

Authorizes the insurer to increase the amount of funds to be withdrawn from the account only if the insurer does not receive a valid objection to the increase on or before the fifth day before the date on which the increase is scheduled to take effect.

Title Insurance Company Affidavit as a Release of Lien—H.B. 3945*by Representative Orr—Senate Sponsor: Senator Watson*

Often, title insurance agents are unable to obtain a release of lien for a property once a mortgage is paid off. Under current law, if a mortgagee fails to execute and deliver a release of mortgage to the mortgagor or the mortgagor's designated agent within 60 days after receipt of payment of the mortgage, a title insurance company officer may, on behalf of the mortgagor or a transferee of the mortgagor, execute an affidavit and record it in the same county in which the mortgage was recorded. Some mortgagees are less responsive in handling a request for a release of lien. Title insurance agents must leave the file open for extended periods of time and spend many hours attempting to obtain the release. Additionally, existing procedures apply only to underwriters under certain circumstances and procedures whereby a title insurance agent is authorized to file an affidavit which will function as a release of lien are necessary. This bill:

Applies only to a mortgage on property other than property relating to a one-to-four-family residence if the original face amount of the indebtedness secured by the mortgage on the property is less than \$1.5 million.

Authorizes an authorized officer of a title insurance company or an authorized title insurance agent, on behalf of the mortgagor or a transferee of the mortgagor who acquired title to the property described in the mortgage, to execute an affidavit and record the affidavit in the real property records of each county in which the mortgage was recorded.

Deletes existing text authorizing an authorized officer of a title insurance company to execute an affidavit if a mortgagee fails to execute and deliver a release of mortgage to the mortgagor or the mortgagor's designated agent within 60 days after the date of receipt of payment of the mortgage by the mortgagee in accordance with a payoff statement furnished by the mortgagee or its mortgage servicer.

Sets forth the language of the affidavit and requires that an affidavit include certain information.

Requires the title insurance company or authorized title insurance agent, on or after the date of the payment to which the affidavit relates, to notify the mortgagee at the location to which the payment is sent that the title insurance company or authorized title insurance agent is authorized to file for record at any time the affidavit as a release of lien.

Prohibits the title insurance company or authorized title insurance agent, if the required notice is not provided to the mortgagee, from filing for record the affidavit as a release of lien.

Authorizes the mortgagee to file a separate affidavit describing the mortgage and property and controverting the affidavit by the title insurance company or authorized title insurance agent as a release of lien on or before the 45th day after the date the mortgagee receives the notice if the mortgagee mails a copy of the mortgagee's affidavit to the title insurance company or authorized title insurance agent within that 45-day period.

Deletes existing text requiring the affiant to attach to the affidavit certain documentary evidence that the mortgage has been paid off.

Provides that an affidavit operates as a release of the mortgage described in the affidavit if the affidavit is executed; is recorded; and is not controverted by a separate affidavit by the mortgagee in accordance with certain requirements.

Provides that a person who knowingly causes an affidavit with false information to be executed and recorded is liable for the penalties for filing a false affidavit and to a party injured by the affidavit for actual damages or \$5,000, whichever is greater.

Authorizes a title insurance company or authorized title insurance agent that, at any time after payment of the mortgage, files for record an executed affidavit to use any recording fee collected for the recording of a release of the mortgage for the purpose of filing the affidavit.

Does not affect any agreement or obligation of a mortgagee to execute and deliver a release of mortgage.

Insurance Charters and Certificates of Authority—H.B. 4291

by Representative Smithee—Senate Sponsor: Senator Fraser

Current law requires the Texas Department of Insurance (TDI) to hold a hearing before denying an application for a certificate of authority for a company that desires to enter the Texas market as an insurer. In contrast, the current process allows the commissioner of insurance (commissioner) to deny an application for the acquisition of control of an existing insurer without first holding a hearing and entitles the applicant to a hearing if the commissioner denies the application.

The statutory hearing requirements prolong the review process and divert valuable resources from other applications and regulatory functions of TDI. Providing an applicant with a hearing after denial of an application maintains the applicant's due process rights, allows TDI to require strict adherence to the standards for the issuance of a certificate of authority, and minimizes the time spent on unqualified applications. This bill:

Authorizes TDI to approve, deny, or disapprove an application for a certificate of authority or charter to act as an insurer without being required to first hold a hearing.

Requires TDI, if TDI determines that the applicant has complied with the law, to approve the application and issue under TDI's seal a certificate of authority to act as an insurer.

Requires the commissioner to hold a hearing on a denial on the applicant's request.

Requires TDI, if after conducting a department inquiry TDI determines that the person who is subject of the inquiry is not worthy of the public confidence, to deny the application for a certificate of authority, or revoke the insurer's certificate of authority.

Authorizes an interested party to participate fully and in all respects in any proceeding related to the application by a life, health, or accident insurance company or a stipulated premium insurance company.

Repeals Sections 822.057(c) (relating to prohibiting the commissioner from delaying providing notice of a hearing on the application for charter for more than 10 days), 822.058(a) (relating to authorizing the commissioner, on receipt of an application for the charter of an insurance company, to set the date for a hearing on the application), 822.059 (Action on Application For Charter), 841.060 (Application Process), 843.081 (Deadline for Action On Application), and 882.058(c) (relating to requiring the commissioner, if the commissioner does not reject the application, to approve the application), Insurance Code.

Impaired Title Insurance Agents and Companies—H.B. 4338

by Representative Smithee—Senate Sponsor: Senator Fraser

Weaknesses in the existing regulatory system have been brought to the forefront during the current economic downturn. Several title insurance agents have failed, leaving files in the middle of closing, offices and file storage facilities padlocked, and Texas Department of Insurance (TDI) staff uncertain whether to place the agent into receivership or into the hands of the Texas Title Insurance Guaranty Association (association). Current law does not

specify that funds owed to an agent's underwriter or another agent for providing title evidence or closing services be held in trust by the agent. Holding the money in trust places the underwriter and other agents into a more secure position. This bill allows the commissioner of insurance (commissioner) more flexibility in handling impaired title insurance agents and companies. This bill:

Requires TDI, to provide for the safety and protection of policyholders, to require that an abstract plant under the Texas Title Insurance Act be geographically arranged, cover a period beginning not later than January 1, 1979, and be kept current, and be adequate for use in insuring titles, as determined by TDI.

Redefines "impaired agent" and "impaired title insurance company."

Requires the association to pay from the guaranty fee account fees and reasonable and necessary expenses that TDI incurs in an examination or audit of a title agent or direct operation Texas insurance laws.

Authorizes the association to advance money necessary to pay the expenses of administering the supervision, rehabilitation, receivership, conservatorship, or, as determined by a court of competent jurisdiction, other insolvency of an impaired title insurance company or impaired agent on terms the association negotiates, if the company's or agent's assets are insufficient to pay those expenses.

Requires the board of directors of the association (board), annually or more frequently, to determine the amount of the guaranty fee, considering the amount of money to be maintained in the guaranty fee account that is reasonably necessary for efficient future operation.

Requires that certain claims be paid from guaranty fees only and prohibits them from being paid from assessments.

Authorizes guaranty fees to be used only for payment of such claims and expenses related to an audit or an examination conducted by TDI or the association, the supervision and coordination of such an audit or examination, and other specified action.

Prohibits a company, if an assessment has been made for an impaired title insurance company or association funds have been provided for the company, on release from the supervision, rehabilitation, conservatorship, receivership, or other proceeding in which the company was found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due, from issuing a new or renewal insurance policy until the company has repaid certain amounts.

Prohibits the agent, on release from the supervision, conservatorship, rehabilitation, receivership, or other proceeding in which the agent was found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due, subject to dischargeability, from acting as an agent until the agent has repaid in full the amount of guaranty fees paid by the association, if an assessment has been made for an impaired agent or guaranty fees have been provided for the impaired agent.

Sets forth additional duties of the association.

Requires any present or former officer, manager, director, trustee, owner, employee, or agent of the agent, or any other person with authority over or in charge of any segment of the agent's affairs, to cooperate with the association.

Provides that a person who fails to cooperate is subject to certain sanctions, in addition to all other sanctions available under law.

Requires that the completed application for a title insurance license state certain information, including that the proposed agent has unencumbered assets in excess of liabilities, exclusive of the value of abstract plants.

Requires an agent applying for an initial license to provide evidence that the agent and its management personnel have successfully completed a professional training program within one year preceding the date of application.

Requires the commissioner to adopt by rule a professional training program (program) for a title insurance agent and the management personnel of the title insurance agent.

Sets forth criteria for the program and specifies the types of entities that are required to offer such a program.

Provides that any information, including a document, record, or statement, and including certain information provided to or received from the commissioner, or any other information required or permitted to be made or disclosed to or by TDI is not public information subject to Chapter 552 (Public Information), Government Code, except to a certain extent and is a privileged communication and is prohibited from being disclosed to the public except as evidence in an administrative hearing or proceeding.

Authorizes a title insurance company to provide information to the commissioner about a financial matter that would reasonably call into question the solvency of a title agent that the title insurance company appointed and requires each title insurance company to provide annually to TDI a list of officers authorized to provide to TDI such information.

Provides that the information provided is not subject to Chapter 552, Government Code, except that the commissioner is authorized to release information that the commissioner received to a title insurance company that has appointed, or that is considering appointing, the title agent.

Requires each title insurance agent to provide TDI, on a quarterly basis, with a copy of the agent's quarterly withholding tax report furnished by the agent to the United States Internal Revenue Service, in addition to proof of the payment of the tax.

Requires an agent who does not have employees to certify to TDI on a quarterly basis that there has not been a material change in the agent's financial condition.

Authorizes the commissioner by rule to prescribe the types of information that are privileged.

Requires an agent, with certain exceptions, to maintain unencumbered assets with a market value in excess of liabilities, exclusive of the value of abstract plants, in certain amounts unless the commissioner establishes lesser amounts by rule.

Authorizes an agent to elect to maintain unencumbered assets or place a deposit with TDI as authorized by Section 2652.102 (Alternative to Bond), Insurance Code.

Provides that an agent that holds a license on September 1, 2009, and that has held the license for at least three years as of that date is not required to comply with the criteria for the amount of unencumbered assets an agent must maintain, but is required to increase the unencumbered assets held by the agent, or make and increase the required deposit, until the agent is in compliance with the required capitalization amounts in accordance with the established schedule.

Requires the agent to hold certain unencumbered assets or to make a deposit in a certain amount.

Requires an agent, if the agent has been licensed less than three years as of September 1, 2009, to have at least 50 percent of the required capitalization amount required on September 1, 2010; and 100 percent of that required capitalization amount on September 1, 2011.

Requires the commissioner by rule to establish the procedures for making, filing, using, and paying for the surety bond.

Provides that the funds held by a title insurance agent that are owed to a title insurance company, another title insurance agent, or a direct operation arising from a division of premium, whether as determined under rules adopted by the commissioner or by agreement among the parties, are considered to be held in trust for the title insurance company, other title insurance agent, or direct operation.

Prohibits the commissioner from requiring by rule that funds held by a title insurance agent that are owed to a title insurance company, another title insurance agent, or a direct operation from a division of premium be held in a separate account or be subject to an external audit.

Requires that the annual audit of escrow accounts, unless the agent has elected to make a deposit with TDI, be accompanied by a certification by a certified public accountant that the title insurance agent has the appropriate unencumbered assets in excess of liabilities.

Requires the commissioner by rule to establish a procedure to be used to determine the value of categories of assets and the method by which the certification is required to be made which is prohibited from including an audit of operating accounts.

Provides that a landlord or storage facility, including electronic storage, that accepts possession of an agent's guaranty file or other records takes possession subject to the right of access of the title insurance company involved in the transaction that the file documents, during customary business hours, for the purposes of copying the guaranty file and the obligation to maintain the confidentiality of nonpublic information in the title insurance agent's records according to state and federal laws that govern the title insurance agent.

Provides that if the title insurance agent has been designated impaired, the association has the right to access the guaranty files and other records of the title insurance agent, including electronic records, for 60 days from the date of impairment, during customary business hours, for purposes of copying those records.

Requires that an audit, review, or examination conducted in relation to the association or agent be conducted in accordance with rules adopted by the commissioner.

Requires that the rules provide that before a report from an examination, review, or audit becomes final, TDI will furnish to the title agent or direct operation a copy of the report and any evidence on which the report relies within a specified period.

Requires that a public hearing held in relation to change in a premium rate previously fixed by the commissioner to be conducted by the commissioner as a rulemaking hearing.

Requires that a public hearing, at the request of a title insurance company or the public insurance counsel, be conducted by the commissioner as a contested case hearing.

Prohibits information received or requested by the commissioner as part of an audit or examination from being used for rate setting and provides that nothing in these provisions prohibits a party from conducting discovery in a ratemaking or other proceeding or producing other information requested by TDI, or verifying the data reported under a statistical plan or report promulgated by the commissioner.

Repeals Sections 2602.056 (Financial Statement of Board Member) and 2602.153(c) (relating to the requirement that administrative expenses be paid from the guaranty fee account), Insurance Code.

Unauthorized Insurance Guaranty Fund—H.B. 4339

by Representative Smithee—Senate Sponsor: Senator Fraser

The purpose of this legislation is to alleviate the financial hardship imposed on persons who are harmed by the sale of unauthorized insurance in this state. Current law provides administrative and judicial remedies for persons who are harmed by the sale of unauthorized insurance in Texas. The existing funding mechanisms created to protect policy claimants from failed insurers do not cover the victims of unauthorized insurers. Guaranty associations, which consist of licensed insurers, only cover the claims of their member companies. While funds are available from the Abandoned Property Fund to pay for a receivership's administrative expenses, such funds cannot be used to pay insurance claims. This bill:

Amends Subtitle D, Title 4, Insurance Code, by adding Chapter 464 (Unauthorized Insurance Guaranty Fund Act).

Provides that Chapter 464 applies to a delinquency proceeding under Chapter 443 (Insurer Receivership Act) of an unauthorized insurer.

Provides that liability does not exist and a cause of action does not arise against the commissioner of insurance (commissioner) or an agent, employee, or representative of the commissioner for any good faith act or omission in performing the commissioner's, or the agent's, employee's, or representative's powers and duties.

Authorizes the commissioner to adopt rules as necessary to implement Chapter 464.

Establishes the unauthorized insurance guaranty fund (fund) with the Texas Treasury Safekeeping Trust Company in accordance with procedures adopted by the comptroller of public accounts.

Provides that this fund is exempt from payment of all fees and taxes levied by this state or a political subdivision of this state.

Authorizes the commissioner to identify collected penalties to be deposited into the fund account from certain sources.

Authorizes the commissioner, if the commissioner determines that the amounts on deposit in the fund account exceed the amount required to pay administrative expenses and claims of existing and anticipated delinquency proceedings of unauthorized insurers, to transfer the excess amount from the fund to the comptroller for deposit into the general revenue fund.

Authorizes the commissioner, in the event of a delinquency proceeding of an unauthorized insurer, to advance funds from the fund account if the assets of the unauthorized insurer are insufficient to pay administrative expenses or policy claims.

Requires the commissioner, in determining an amount to be advanced, to consider certain criteria.

Authorizes an amount advanced to be used to supplement the assets of an unauthorized insurer to pay administrative expenses and policy claims that are approved by the commissioner in a proceeding under Section 443.051 (Receivership Court's Seizure Order), or the receiver in a proceeding under Section 443.052 (Commencement of Formal Delinquency Proceeding), Insurance Code.

Provides that the commissioner or receiver, as applicable, is not required to make distributions from the assets of the unauthorized insurer before using advanced amounts.

Requires the claims, if approved policy claims cannot be paid in full from the funds advanced and the assets of the unauthorized insurer available for distribution, to be paid on a pro rata basis.

Requires that amounts advanced that are not needed to pay administrative expenses or policy claims be returned to the fund account.

Requires on a final distribution or the termination of a delinquency proceeding, any funds of the unauthorized insurer remaining after the payment in full of administrative expenses and policy claims to be used to repay the advance, up to the amount of the advance.

Authorizes a person who has a policy claim to receive funds deposited or advanced under Chapter 464 only in accordance with certain provisions.

Access to Criminal History Record Information by Certain Agencies—H.B. 4343

by Representative Smithee—Senate Sponsor: Senator Fraser

The Texas Department of Insurance (TDI) is charged with examining persons to determine eligibility for an insurance license. TDI is authorized to deny a license to a person who has engaged in certain criminal conduct or has been convicted of a crime directly related to the business of insurance. TDI is allowed to access criminal history information on some applicants who have convictions, but persons who engage in the same conduct but receive deferred adjudication of sentencing may obtain nondisclosure orders after completion of the probationary period. The Government Code lists a number of entities and agencies that are permitted to receive criminal history information, which allows the agencies and entities to obtain complete information on an applicant for determining fitness for licensure. Because of the trust consumers place in insurance agents and companies, it is important that any criminal history be considered when determining whether to issue a license. This bill:

Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure to certain noncriminal justice agencies or entities only, including TDI.

Administrative Penalties for Insurance Code Violations—H.B. 4358

by Representative Smithee—Senate Sponsor: Senator Fraser

The Insurance Code and related administrative rules impose a number of technical requirements on persons licensed by the Texas Department of Insurance (TDI). Currently, if a TDI program area wants to initiate an action for a violation, the program area must refer each violation to the enforcement division. Attorneys in the enforcement division typically negotiate and draft a consent order, which must then be reviewed and signed by the commissioner of insurance (commissioner). TDI would benefit from minimizing the use of attorney and litigation support resources to address issues that could be resolved at the program area level through the use of automatic fines. The attorney resources could then be reallocated to projects involving consumer harm or serious misconduct. Currently, TDI is authorized to resolve certain violations through a fine, including the failure of insurance agents to complete continuing education, to file address changes, and to report disciplinary actions by other states. This bill:

Authorizes the commissioner to adopt and enforce reasonable rules that the commissioner determines necessary to accomplish the purposes of Chapter 84 (Administrative Penalties), Insurance Code.

Authorizes the commissioner to establish by rule the amount of an administrative penalty to be imposed for a specific violation.

Provides that the existence or absence of a rule adopted under Chapter 84 does not limit the commissioner's authority to take any action authorized by law.

Registration of Certain Contract Examiners of Insurers—H.B. 4359

by Representative Smithee—Senate Sponsor: Senator Duncan

Some states use contract examiners to perform examinations of insurers and may not coordinate those examinations with other states. This lack of coordination may result in duplicate examination or, in some instances, in duplicate charges for the same examination work. Because the insurer is required to pay the costs of examination, this often results in duplicate costs to the insurer. This bill:

Requires the commissioner of insurance (commissioner) to coordinate the Texas Department of Insurance's (TDI) market analysis and examination efforts with other states through the National Association of Insurance Commissioners.

Requires a person with whom another state contracts to perform any market analysis or examination initiated by the other state of an insurer domiciled in this state to register with and provide certain information to TDI's chief examiner.

Provides that it is a violation of the Insurance Code for a person to accept compensation from multiple states for the same examination, if doing so results in duplicative costs to the insurer being examined.

Provides that it is not a violation of the Insurance Code for an examiner to conduct an examination of an insurer for the benefit of multiple states in a coordinated examination and the examiner to accept compensation from the states participating in the coordinated examination to reduce the examination costs to the insurer being examined.

Standards and Rules of Independent Review Organizations—H.B. 4519

by Representative Homer—Senate Sponsor: Senator Deuell

Independent review organizations review the denial of coverage of medical treatment by insurance carriers. Current law requires the commissioner of insurance to adopt certain standards and rules for the certification, selection, and operation of independent review organizations. This bill:

Sets forth the standards and rules that the commissioner of insurance is required to adopt relating to the operation, governance, and actions of independent review organizations.

Insurance Coverage for Routine Care Costs in Clinical Trials—S.B. 39

by Senator Zaffirini et al.—House Sponsor: Representative Zerwas

A number of insurance companies currently do not provide coverage for routine care costs when a patient with a life-threatening illness chooses to participate in a clinical trial. This bill:

Requires a health benefit plan issuer to provide benefits for routine patient care costs to an enrollee in connection with a phase I, phase II, phase III, or phase IV clinical trial if the clinical trial is conducted in relation to the prevention, detection, or treatment of a life-threatening disease or condition and is approved by certain organizations.

Establishment of TexLink to Health Coverage Program—S.B. 78*by Senator Nelson—House Sponsor: Representative Smithee*

Health insurance policies are extremely complex and often difficult for consumers to understand, thereby deterring consumers from obtaining health insurance due to a lack of knowledge about the benefits of being insured. This bill:

Establishes the TexLink to Health Coverage Program at the Texas Department of Insurance to educate the public about the importance and value of health coverage, promote personal responsibility for health care through the purchase of health coverage, assist certain persons seeking to purchase health coverage with technical information necessary to understand available health insurance coverage, and promote and facilitate the development and availability of new health coverage options, among other purposes of the program.

Sets forth the information required to be provided under the TexLink to Health Coverage Program.

Certification of Insurance Agents Serving Small Employer Market—S.B. 79*by Senator Nelson—House Sponsor: Representative Smithee*

Insurance agents that sell small employer health coverage may not sufficiently understand the unique requirements of the small employer market and therefore, may be giving bad, or even illegal, advice to employers. The Texas Department of Insurance has no way of identifying which agents are selling small employer health coverage and cannot provide employers with a list of knowledgeable agents. This bill:

Creates a voluntary specialty certification program with the Texas Department of Insurance for individuals who market small employer health benefit plans.

Sets forth the qualification and training requirements necessary to be eligible to receive a specialty certification for agents serving the small employer market.

Small Employer Health Benefit Plan Contribution Options—S.B. 80*by Senator Nelson—House Sponsor: Representative Truitt*

Current law requires a health benefit plan issuer to apply an employer contribution level uniformly to each small employer offered or issued coverage by the issuer. Therefore, insurance carriers are not authorized to offer varying contribution rates as an option to small employers. This bill:

Authorizes a small employer health benefit plan issuer to offer a small employer the option of a small employer health benefit plan for which the employer is required to contribute 100 percent of the premium paid.

Authorizes a plan to be offered in addition to a plan offered by the issuer that requires a lower percentage of the premium paid to be contributed by the employer.

Requires a plan issued to require the employer to contribute 100 percent of the premium paid for each eligible participating employee.

Continued Health Coverage for Employees of Certain Political Subdivisions—S.B. 654

by Senator Zaffirini—House Sponsor: Representative Guillen

Current law entitles county employees in a county with a population of 75,000 or more and municipal employees in a municipality with a population of 25,000 or more to purchase continued health coverage upon retirement if those employees are entitled to receive retirement benefits from their respective county or municipal retirement plans. This bill:

Extends this entitlement to purchase continued health coverage upon retirement to employees who retire from an appraisal district in a county with a population of 75,000 or more and who are entitled to receive retirement benefits from the appraisal district's retirement plan.

Registry and Records Relating to Race-Based Pricing by Insurance Companies—S.B. 698

by Senator Ellis—House Sponsor: Representative Thompson

In the past, there have been allegations of insurance companies issuing race-based insurance coverage. While this practice no longer exists, premiums currently being paid on old policies may not have been adjusted to eliminate the effects of this practice. This bill:

Requires the commissioner of insurance to establish a registry of each legal entity engaged in the business of insurance that has entered into an agreement with the Texas Department of Insurance (TDI) that disposes of allegations of race-based pricing and under which all or part of the relief agreed on to make insureds whole includes a claims-made offer that remains in place and has not otherwise expired under the terms of the agreement.

Requires TDI to preserve all examinations, exhibits, and other relevant documents regarding race-based pricing investigations until completion of the investigation, when TDI is required to send such records to the state archivist.

Requirements of Information Relating to Pharmacy Benefit Manager Contracts—S.B. 704

by Senator Nelson—House Sponsor: Representative Kolkhorst

Currently, if a state agency requests contract pricing information relating to a pharmacy benefit manager of another agency, the request is referred to the attorney general's office for a determination of whether the information is confidential. The attorney general has issued an opinion that such contract pricing information shared between agencies is not confidential. State agencies can learn from each other's purchasing strategies and practices. This bill:

Requires a state agency on request of another state agency to disclose information relating to the amounts charged by a pharmacy benefit manager for such services provided under a prescription drug program and other requested pricing information related to such a contract.

Requires the Texas Department of Insurance to conduct a study evaluating the ways in which pharmacy benefit managers use prescription drug information to manage therapeutic drug interchange programs and other drug substitution recommendations made by pharmacy benefit managers or other similar entities.

Sets forth requirements of certain contracts to provide pharmacy benefit manager services.

Sets forth requirements relating to the delivery of prescription drugs by mail under certain circumstances.

Survivors of Law Enforcement Officers and Continued Insurance Coverage—S.B. 872

by Senator Lucio et al.—House Sponsor: Representative Menendez

Legislation passed in 1993 was intended to allow the surviving family members of a law enforcement officer killed in the line of duty to continue to purchase health insurance from the governmental entity that employed the deceased officer and at the same rate that the employee was paying for the insurance. However, some governmental entities have not complied with the law and clarification of the law is needed to follow the intent of the original legislation. This bill:

Entitles a surviving spouse to continue to purchase health insurance coverage until the date the surviving spouse becomes eligible for federal Medicare benefits.

Entitles an eligible surviving dependent who is a minor child to continue health insurance coverage until the date the dependent reaches the age of 18.

Sets forth notification requirements relating to an eligible survivor's election to continue coverage.

Prohibits an eligible survivor from being required to pay a premium amount for the continued coverage that is greater than the premium amount of a current employee.

Approval of Rate Increases of Long-Term Care Insurance Carriers—S.B. 963

by Senator Ellis—House Sponsor: Representative Smither

Many states require long-term care insurance carriers to file for rate increase; however, Texas does not, thereby causing long-term care carriers to collect higher premiums in Texas than in other states that have denied rate increases. This bill:

Prohibits a long-term care premium rate from being used until the rate has been filed with the Texas Department of Insurance and approved by the commissioner of insurance.

Employer Liability for Certain Premiums and Health Benefits Study—S.B. 1143

by Senator Carona—House Sponsor: Representative Thompson

Under current practices, insurance companies often hold employers responsible for insurance premiums of terminated employees until the end of the month in which the insurer receives notification that the employee is no longer enrolled in the group health plan.

Intravenously administered anticancer medications are covered under a health benefit plan's medical benefits, while orally administered anticancer medications are covered under a health benefit plan's pharmacy benefit. This bill:

Requires insurers and health maintenance organizations to notify the group contract holder periodically that the contract holder is liable for premiums on an enrollee who is no longer part of the group eligible for coverage under the contract until the insurer or health maintenance organization receives notification of termination of the enrollee's eligibility for that coverage.

Requires the Texas Department of Insurance to study the disparity in patient copayments between orally and intravenously administered chemotherapies.

Insurance Coverage and Certain Mental Health Providers—S.B. 1291

by Senator Van de Putte—House Sponsor: Representative Martinez Fischer

Current law authorizes an insured individual to select the services of certain mental health providers to be covered under a health insurance policy. The law provides that the health insurance policy may require that services of certain mental health providers be recommended by a physician. This bill:

Deletes existing text authorizing a health insurance policy to require that services of a licensed professional counselor or a marriage and family therapist be recommended by a physician.

Eligibility Requirements of Texas Health Insurance Pool—S.B. 1403

by Senator Averitt—House Sponsor: Representative Smithee

The Texas Health Insurance Risk Pool provides insurance for individuals who cannot afford private insurance but may not otherwise qualify for government-funded insurance. There are certain eligibility requirements relating to residency required to be met by enrollees. This bill:

Redesignates the Texas Health Insurance Risk Pool as the Texas Health Insurance Pool (pool).

Provides that dependent of an individual who is eligible for coverage from the pool are also eligible for coverage from the pool.

Sets forth residency requirements to be eligible for coverage from the pool.

Certain Insurance Plans Exempt from Providing Mandated Benefits—S.B. 1479

by Senator Carona—House Sponsor: Representative Taylor

Current law mandates that certain benefits be provided by certain health insurance plans. However, some health insurance plans only provide coverage for certain types of medical care or in certain situations, such as dental or vision care, for a specified disease, or disability income. Therefore, some mandated benefits would not apply to such specialized plans. This bill:

Provides that certain mandated benefits do not apply to insurance plans that provide coverage only for a specified disease, for accidental death or dismemberment, as a supplement to a liability insurance policy, or for dental or vision care; disability income insurance coverage or a combination of accident-only and disability income insurance coverage; credit insurance coverage; hospital confinement indemnity policy; a certain Medicare supplemental policy; a workers' compensation insurance policy; medical payment insurance coverage provided under a motor vehicle insurance policy; a long-term care insurance policy; or an occupational accident policy.

Premium Assistance in Continuation Coverage Programs—S.B. 1771

by Senator Duncan—House Sponsor: Representative Eiland

The Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA) provides continued insurance coverage for 18 or 36 months to employees terminated by businesses with 20 or more full-time employees. For businesses with less than 20 full-time employees, Texas offers a continuation coverage program similar to COBRA for six months. The American Recovery and Reinvestment Act of 2009 provides premium assistance for COBRA and state continuation coverage programs. This bill:

Applies the premium assistance for COBRA coverage and the state continuation coverage to former employees of businesses with less than 20 full-time employees for an equal period of time.

Interpleader Actions in Payment of Life Insurance Benefits—S.B. 1812

by Senator Duncan—House Sponsor: Representative Hancock

Current law requires a life insurer to pay damages to a claimant if the insurer delays payment of a claim for a period exceeding 60 days. Until 2007, courts had generally recognized a common law exception to life insurance claim payments deadline when the insurer received notice of a legitimate adverse claims. However, the Texas Supreme Court held that the common law was no longer applicable. This bill:

Requires a life insurer that receives notice of an adverse, bona fide claim to all of part of the proceeds of a policy before the applicable payment deadline to pay the claim or properly file an interpleader action not later than the 90th day after the date the insurer receives all items, statements, and forms reasonably requested and required by law.

Coverage of Bariatric Surgery for State Employees—S.B. 2577

by Senator Mike Jackson—House Sponsor: Representative Zerwas

Currently, the Employees Retirement System of Texas (ERS) does not cover bariatric surgery for state employees; however, the board of trustees of ERS has been working for a solution to provide such coverage without affecting the cost of health insurance for state employees. This bill:

Requires the board of trustees of ERS to develop a cost-neutral or cost-positive plan for providing under the group benefits program bariatric surgery coverage for employees eligible to participate in the program.

Additional Filing Fee for Certain Civil Cases in Bexar County—H.B. 144

by Representative McClendon—Senate Sponsor: Senator Wentworth

Improvements are needed for the Bexar County civil and criminal courts facilities. This bill:

Establishes a temporary fee not to exceed \$15 on certain civil filings in Bexar County to fund such improvements.

Provides that the fee, if approved by the Bexar County commissioners court, begins for the 12-month period starting October 1, 2009, and continues from year to year until October 1, 2024, unless rescinded by the commissioners court.

Exemption from Jury Service for Persons With Custody of a Child Under 15—H.B. 319

by Representatives Raymond and Leibowitz—Senate Sponsor: Senator Carona

Texas law provides for a jury exemption for a person who has custody of a child under 10 years of age when jury service would leave the child without adequate supervision. Texas law also makes it an offense for a person having custody of a child younger than 15 years to abandon or endanger the child. This bill:

Amends the jury exemption for custodians of minor children to apply the exemption to the custodian of a child younger than 15 years of age.

Recovery of Costs and Attorney's Fees in Suits for Adverse Possession—H.B. 556

by Representative Kuempel—Senate Sponsor: Senator Harris

Adverse possession is the legal concept that a person who occupies and uses another's property without permission may become the actual owner of the property. The Civil Practice and Remedies Code sets forth the statutory guidelines relating to adverse possession, including the statutes of limitation and restrictions to adverse possession in certain situations. Current law provides courts discretion in awarding costs and reasonable attorney's fees to the prevailing party in a suit for adverse possession. However, courts rarely award attorney's fees in these cases. This bill:

Requires the court, in a suit for adverse possession, to award costs and reasonable attorney's fees to the prevailing party if the court finds that the person unlawfully in actual possession made a claim of adverse possession that was groundless and made in bad faith.

Authorizes the court, in a suit for adverse possession, to award costs and reasonable attorney's fees to the prevailing party in the absence of a finding that the person unlawfully in actual possession made a claim of adverse possession that was groundless and made in bad faith.

Nondisclosure of Personal Information of Justices of the Peace in Public Records—H.B. 559

by Representatives Hernandez and Pena—Senate Sponsor: Senator Gallegos

Current law provides for the nondisclosure and protection of personal information in voter registration records, concealed handgun license records, and tax appraisal records of certain public officials, including federal and state judges and state legislators, among others, whose safety could be jeopardized by the disclosure of such information. This bill:

Extends protection to and provides for the nondisclosure of certain personal information in voter registration records, concealed handgun license records, and tax appraisal records relating to a justice of the peace.

Alternative Address Information on a Judge's Driver's License—H.B. 598

by Representative Hughes et al.—Senate Sponsor: Senator Whitmire

In an effort to strengthen court security, the United States Congress enacted a number of measures that affected both the federal and state judicial systems. Because of the need to increase protection of federal and state judges, the Court Security Protection Act allows for states, in lieu of home addresses, to display the courthouse address on the drivers' licenses of state and federal judges and their spouses.

In 2007, the 80th Legislature enacted H.B. 41, which exempted current, former, and retired federal and state judges from requirements that they list their residence address information on public voter registration or appraisal records. This legislation also allowed federal and state judges to list the street address of the courthouse on their concealed handgun license.

Chapter 521, Transportation Code, requires that a person applying for a new driver's license or changing addresses provide a home address and that the home address be displayed on the driver's license issued by the Texas Department of Public Safety of the State of Texas (DPS). This bill:

Authorizes DPS to develop a procedure, following sufficient documentary evidence, to allow a federal judge or state judge, or the spouse of a federal judge or a state judge, to use the judge's courthouse address, rather than a home address, on a driver's license.

Providing Posttrial Psychological Counseling for Certain Jurors—H.B. 608

by Representative Castro et al.—Senate Sponsor: Senator Wentworth

A county commissioners court is authorized to approve a program providing not more than 10 hours of posttrial psychological counseling to persons who served as jurors or alternate jurors in certain enumerated criminal trials involving graphic evidence or testimony and who request such counseling within 180 days after the jury was dismissed. This bill:

Expands eligibility for posttrial psychological counseling to jurors or alternate jurors in any criminal trial involving graphic evidence or testimony.

Authorizes juvenile boards, with the approval of the county commissioners court, to approve a similar counseling program for jurors or alternate jurors in a juvenile adjudication hearing involving graphic evidence or testimony.

Number of Jurors in Juvenile Court Misdemeanor Adjudication Hearings—H.B. 609

by Representative Castro—Senate Sponsor: Senator Wentworth

Under the Texas Family Code, a child has a right to a trial by jury in a juvenile adjudication hearing. The Family Code requires that the jury consist of 12 persons for certain felony offenses, but there is no specific provision regarding how many jurors are required for misdemeanor offenses. The Texas Code of Criminal Procedure provides for a jury of six for misdemeanor offenses. This bill:

Requires that the jury in juvenile adjudication hearing for a misdemeanor offense consist of the same number of jurors required under the Code of Criminal Procedure.

Assignment as a Visiting Judge—H.B. 764

by Representatives Hartnett and Branch—Senate Sponsor: Senator Wentworth

Currently, a visiting statutory probate judge must have served as an active judge for at least 96 months in a district, statutory probate, statutory county, or appellate court; have developed substantial experience in the judge's area of specialty; not have been removed from office; certify under oath to the presiding judge that the retired or former judge has never been publicly reprimanded or censured by the State Commission on Judicial Conduct and did not resign from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted; annually demonstrate completion in the past fiscal year of the educational requirements for active district, statutory probate, and statutory county court judges; and certify to the presiding judge a willingness not to appear and plead as an attorney in any court in Texas for a period of two years. These eligibility requirements differ from those of other visiting judges. This bill:

Updates the eligibility requirements for visiting statutory probate judges and requires visiting statutory probate judges to:

- not have been removed from office;
- certify certain information under oath to the presiding judge, on a form prescribed by the state board of regional judges;
- annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for an active statutory probate court judge;
- have served as an active judge for at least 96 months in the district, statutory probate, statutory county, or appellate court; and
- have developed substantial experience in the judge's area of specialty.

Supplemental Payments for Certain Statutory Probate Court Judges—H.B. 765

by Representative Hartnett—Senate Sponsor: Senator Carona

Texas pays district court judges who have served since August 31, 1995, an additional amount as benefit replacement pay and pays an additional longevity benefit to district judges who have served at least 16 years. This bill:

Requires a county commissioners court to annually pay a statutory probate court judge who has continuously served as a judge of a statutory probate court or a statutory county court since August 31, 1995, an additional amount equal to the amount of benefit replacement pay a district judge is entitled to receive for equivalent continuous service; and monthly pay a statutory probate court judge who has served as a judge of a statutory probate court or a statutory county court for at least 16 years longevity pay in an amount equal to the amount of longevity pay a district judge is entitled to receive from the state for equivalent years of service.

Revising Terminology Describing Certain Judicial Officers—H.B. 890

by Representative Naishtat—Senate Sponsor: Senator Wentworth

In 1993, the Texas Government Code and the Health and Safety Code were amended to include the position of "master" as the judicial officer presiding over court-ordered mental health proceedings. When the position of "master" was created, use of the term was consistent with usages in other court contexts, such as a "family court master" or "tax master." Over time, the term in other courts has changed to "associate judge." This bill:

Amends the Government Code and the Health and Safety Code by eliminating the term "master" and replacing it with the term "associate judge."

Additional Court Reporters for Nueces County District Courts—H.B. 1551

by Representative Herrero—Senate Sponsor: Senator Hinojosa

Under current law, the Nueces County district courts cannot employ more than one official court reporter for a district court. This bill:

Authorizes Nueces County district court judges to employ additional official court reporters.

Requires the judges, by majority vote, to determine the method of hiring such reporters.

Requires the presiding judge to determine the assignments of the additional reporters.

Sets a limit on the total number of reporters.

Increasing the Penalty for Defaulting Jurors—H.B. 1665

by Representative Phil King—Senate Sponsor: Senator Harris

Current law sets a maximum penalty if a juror fails to attend court or files a false exemption claim. Defaulting jurors adversely affect the judicial process. This bill:

Increases the penalty imposed on defaulting jurors in civil and criminal courts to not less than \$100 nor more than \$500. The previous caps, depending on the offense, were \$50 or \$100.

Creation of a County Court at Law in Navarro County—H.B. 1682

by Representative Cook—Senate Sponsor: Senator Averitt

Navarro County has requested the creation of a statutory county court at law. This bill:

Creates the County Court at Law of Navarro County as of January 1, 2011, or on an earlier date determined by the commissioners court.

Sets out the jurisdiction of the court and other matters relating to the court.

Motion for New Trial in Juvenile Cases—H.B. 1688

by Representative Castro—Senate Sponsor: Senator Wentworth

Following trial in a juvenile delinquency matter, the attorney may file a motion for a new trial. Although the Family Code directs that the Texas Rules of Civil Procedure govern juvenile justice proceedings, an attorney may file the motion for a new trial under Rule 21 of the Texas Rules of Appellate Procedure, which governs a motion for a new trial in a criminal case. This bill:

Provides that a motion for new trial seeking to vacate an adjudication in a juvenile matter is governed by Rule 21.

Proceedings Referred to a Criminal Law Magistrate in Bexar County—H.B. 1722

by Representatives Castro and Gutierrez—Senate Sponsor: Senator Uresti

Current law does not explicitly authorize Bexar County magistrates to issue evidentiary search warrants for property or items constituting evidence of an offense or showing that a person committed an offense. This bill:

Authorizes a judge in Bexar County to refer to a magistrate any criminal case for proceedings involving the issuance of certain search warrants.

Authorizes the magistrate to issue such search warrants.

Creating Criminal Law Magistrates for Brazoria County—H.B. 1750

by Representative Bonnen—Senate Sponsor: Senator Huffman

Justices of the peace in Brazoria County have large volume of cases. This may delay the arraignment of a person who has been arrested. This bill:

Authorizes the Brazoria County Commissioners Court to select magistrates to serve the courts of Brazoria County having jurisdiction in criminal matter, who serve at the pleasure of the commissioners court.

Requires the commissioners court to establish the minimum qualifications, salary, benefits, and other compensation of each magistrate.

Sets forth the qualifications, jurisdiction, and powers and duties of such magistrates.

Grants a magistrate the same judicial immunity as a district judge.

Provides that a witness who is sworn and who appears before a magistrate is subject to the penalties for perjury, and authorizes the referring court to fine or imprison a witness for acts of direct contempt before a magistrate.

Education for Judges Who Hear Certain Juvenile Misdemeanor Cases—H.B. 1793

by Representative Farrar et al.—Senate Sponsor: Senator Zaffirini

Juvenile court judges are required by statute to have an understanding of the problems of child welfare. Municipal and justice courts handle Class C misdemeanor charges filed against juveniles, but there are no education requirements for these judges. The federal Individuals with Disabilities Education Act (IDEA) ensures certain rights to special education children who may be adversely affected by disciplinary proceedings in the juvenile justice system. Municipal and justice court judges do not receive any specific training the requirements of IDEA. This bill:

Requires a judge of a court with jurisdiction to hear a complaint against a child alleging a Class C misdemeanor, other than certain enumerated offenses, to complete a two-hour course of instruction on relevant child welfare issues and IDEA every judicial academic year that ends in a 0 or a 5.

Requires the Texas Court of Criminal Appeals to adopt rules regarding such training.

Authorizes the Court of Criminal Appeals to consult with the Texas Supreme Court and professional groups and associations with expertise in the subject matter regarding such rules.

Operation and Administration of the Judiciary in a Disaster—H.B. 1861

by Representative Eiland et al.—Senate Sponsor: Senators Carona and Zaffirini

During a natural disaster, courts may have difficulty maintaining schedules and meeting certain statutory deadlines. This bill:

Defines "disaster."

Authorizes the Texas Supreme Court to modify or suspend procedures for any court proceeding affected by a disaster during the pendency of a disaster declared by the governor.

Provides that an order by the supreme court under this Act may not extend for more than 30 days from the date the order was signed, unless renewed by the supreme court.

Sets out the following succession regarding who may act on behalf of the supreme court if a disaster prevents the court from acting:

- the chief justice of the supreme court;
- the court of criminal appeals, if a disaster prevents the chief justice from acting; or
- the presiding judge of that court, if a disaster prevents the court of criminal appeals from acting.

Authorizes district and statutory county court judges in each county to adopt a coordinated response for the transaction of essential judicial functions in the event of a disaster.

Expands the purposes of the Texas Disaster Act of 1975 to include clarifying and strengthening the roles of the judicial branch of state government in the prevention of, preparation for, response to, and recovery from disasters.

Compensation of Certain Court Administrators—H.B. 1925

by Representative Gutierrez et al.—Senate Sponsor: Senator Wentworth

Originally, compensation for district court administrators and county court administrators could not be greater than 70 percent of a district or county judge's salary. Subsequently, the legislature has removed this cap in certain counties. This bill:

Removes the 70 percent cap in counties with more than one county criminal court or more than one county court at law having both criminal and civil jurisdiction.

Standards for Attorneys Representing Indigents in Capital Cases—H.B. 2058

by Representative Gallego et al.—Senate Sponsor: Senator Seliger

Current law sets out the same qualifications for trial attorneys and appellate attorneys representing indigent defendants in capital cases, despite the difference between trial attorneys and appellate attorneys. Attorneys with extensive appellate experience representing indigent defendants in capital cases may be disqualified because they do not meet qualification standards specific to trial lawyers. This bill:

Requires that an attorney appointed as lead appellate counsel representing an indigent defendant in the direct appeal of a capital case in which the death penalty is sought must meet certain specified qualifications.

Requires attorneys on the list of attorneys qualified for appointment in death penalty cases to complete certain minimum continuing legal education requirements, including a course relating to appealing death penalty cases, as applicable.

Creation of a County Court at Law in Fannin County—H.B. 2232

by Representative Phillips—Senate Sponsor: Senator Deuell

The Fannin County Commissioners Court has requested the creation of a statutory county court at law. This bill:

Creates the County Court at Law of Fannin County and sets out the court's jurisdiction.

Location of an Arbitration Trial—H.B. 2435

by Representative Philips—Senate Sponsor: Senator Hinojosa

Under current law, a judge may refer a civil case or family law matters to a special judge for a non-jury trial. Such trial cannot be held in a public court room and or use public employees during their regular working hours. This bill:

Authorizes the referring judge to order that the trial be held in a public courtroom and to permit the involvement of public employees.

Jurisdiction of Criminal Law Hearing Officers in Cameron County—H.B. 3417

by Representatives Oliveira and Lucio III—Senate Sponsor: Senator Lucio

The 79th Legislature, Regular Session, 2005, enacted legislation establishing criminal law hearing officers in Cameron County to expedite criminal cases at county jail facilities.

In order to further expedite cases and reduce costs to the county, an expansion of the jurisdiction of the Cameron County criminal law hearing officers is required. This bill:

Provides that the jurisdiction of the criminal law hearing officer is limited to certain actions, including hearing, considering, and ruling on writs of habeas corpus filed under Article 17.151 (Release Because of Delay), Code of Criminal Procedure, and, on motion of the district attorney, dismissing a criminal case when the arresting agency has not timely filed the offense report with the district attorney and reducing the amount of bond on prisoners held at the county jail whose cases have not been filed in a district court or a statutory county court.

Enforcement of Development Regulations in a Justice Court—H.B. 3464

by Representative Keffer—Senate Sponsor: Senator Averitt

Hood County has certain regulatory authority over the unincorporated areas of the county. Violations of those regulations are considered misdemeanors punishable by a fine. The statute requires that such cases be tried in district court. However, Article V (Judicial Department), Section 19 (Justices of the Peace; Jurisdiction; Ex Officio Notaries Public), of the Texas Constitution gives justice courts jurisdiction over criminal matters of misdemeanor cases punishable by fine only. This bill:

Moves jurisdiction over a trial for the enforcement of certain development regulations in Hood County from a district court to a justice court.

Matters Relating to a Presiding Criminal Judge in Travis County—H.B. 3468*by Representative Naishtat—Senate Sponsor: Senator Wentworth*

There are currently seven district courts in Travis County that give preference to criminal cases. The judges have informally elected a presiding criminal judge since 1991. Over time the demands on the presiding judge have increased substantially. This bill:

Provides that for the purposes of determining the annual salary of a judge of a county court at law or a statutory probate court in Travis County, the total annual salary received by a district judge in the county does not include compensation paid to the presiding criminal judge.

Requires the judges of the Travis County district courts that give preference to criminal cases to elect from among those judges a presiding criminal judge for a two-year term expiring September 30 of each odd-numbered year. The judges of the Travis County must elect the presiding criminal judge for a term beginning October 1, 2009.

Sets out the duties of the presiding criminal judge.

Authorizes the Commissioners Court of Travis County to provide additional compensation to the presiding criminal judge in any amount that does not exceed the amount the local administrative district judge of Travis County receives from this state. This additional compensation is not included as part of the judge's combined salary from state and county sources for purposes of statutory salary limitations.

Appointment of an Associate Judge to a District Court in Brazoria County—H.B. 3554*by Representative Bonnen—Senate Sponsor: Senator Mike Jackson*

Currently a Brazoria County district court associate judge is authorized to handle family law matters and drug court proceedings and may preside over civil jury trials if agreed to by all parties. This bill:

Authorizes a judge of a district court in Brazoria County to appoint one or more associate judges.

Sets out the powers of such associate judges and the proceedings that may be referred to such judges.

Prohibits an associate judge from presiding over a criminal trial on the merits.

Grants an associate judge the same judicial immunity as a district judge.

Provides that an associate judge appointed under this Act is a magistrate under the Texas Code of Criminal Procedure.

Operation and Administration of the Judiciary in a Disaster—H.B. 4068 [VETOED]*by Representative Gonzales—Senate Sponsor: Senator Hinojosa*

During a natural disaster, courts may have difficulty maintaining schedules and meeting certain statutory deadlines. This bill:

Defines "disaster."

Authorizes the Texas Supreme Court (supreme court), to the extent permitted by the Texas and United States Constitutions, to exercise the court's inherent authority by rule or order or on a case-by-case basis, with or without

the consent of the parties, to temporarily suspend the provisions of any order, rule, or statute prescribing procedures for the conduct of any court proceeding affected by a disaster for the period the proceeding is affected.

Sets forth what this authority includes.

Sets forth the succession regarding who may act on behalf of the supreme court if a disaster prevents the court from acting.

Authorizes district and statutory county court judges in each county to adopt a coordinated response for the transaction of essential judicial functions in the event of a disaster.

Expands the purposes of the Texas Disaster Act of 1975 to include clarifying and strengthening the roles of the judicial branch of state government in the prevention of, preparation for, response to, and recovery from disasters.

Requires the division of emergency management in the office of the governor to seek the advice and assistance of the judicial branch in preparing and revising the state emergency management plan.

Electronic Filing of Capital Case Documents—H.B. 4314

by Representatives Gallego and Thompson—Senate Sponsor: Senator Shapleigh

Currently, the law requires pleas to be filed as paper copies. In 2007, Judge Sharon Keller of the Texas Court of Criminal Appeals denied a condemned man's plea for a 20-minute extension beyond the court's usual 5:00 p.m. closing time. The man's lawyer stated that he needed the extra time to print the necessary paper copies because a computer malfunction was preventing him from filing at 5:00 p.m. This bill:

Authorizes the Texas Court of Criminal Appeals to adopt rules and procedures providing for and governing the electronic filing of briefs and other documents for capital cases in that court.

Requires the court of criminal appeals, in adopting such rules and procedures, to coordinate with the Texas Supreme Court and the rules and procedures adopted by that court.

Fees Assessed by Domestic Relations Offices—H.B. 4424

by Representative Hernandez—Senate Sponsor: Senators Gallegos and Uresti

A domestic relations office assists district courts and families in the areas of child support, visitation, and a variety of other functions. The domestic relations office receives funding through the collection of a fee by the clerk of a court at the time a suit is filed. There is some confusion regarding the definition of a "suit." This bill:

Clarifies that the clerk of the court must collect the operations fee at the time the original suit, motion for modification, or motion for enforcement, as applicable, is filed.

Provides that if an administering entity of a domestic relations office adopts an initial child support service fee, the clerk of the court must collect the child support service fee at the time the original suit is filed and send the fee to the domestic relations office.

Provides that these fees are not filing fees for purposes of certain provisions of the Family Code.

Authorizes the administering entity to authorize a domestic relations office to assess and collect an initial operations fee not to exceed \$15 to be paid to the domestic relations office on each filing of an original suit, motion for modification, or motion for enforcement.

Clarifies that in a county that has a child support enforcement cooperative agreement with the Title IV-D agency, an initial child support service fee not to exceed \$36 is to be paid to the domestic relations office on the filing of an original suit.

Licensing and Appointment of Court Interpreters—H.B. 4445

by Representative Alvarado—Senate Sponsor: Senator Gallegos

According to the Office of Court Administration of the Texas Judicial System, more than four million cases were filed in county and justice of the peace courts during 2008. Many of these cases are misdemeanor offenses punishable only by a fine or civil claims where the amount in dispute is not more than \$10,000. Many of these cases are filed by Spanish-only speakers. There are not enough Texas licensed court interpreters available. Also, an interpreter would not require as high as high a level of expertise to assist in these courts. This bill:

Requires a licensed court interpreter appointed by a court to hold a license that includes the appropriate designation indicating that the interpreter is permitted to interpret in that court.

Requires all licenses to include at least one of the following designations:

- a basic designation that permits the interpreter to interpret court proceedings in justice courts and municipal courts that are not municipal courts of record, other than a proceeding before the court in which the judge is acting as a magistrate; or
- a master designation that permits the interpreter to interpret court proceedings in all courts in this state, including justice courts and municipal courts.

Requires the executive director of the Texas Department of Licensing and Regulation (executive director) to issue a court interpreter license to an applicant who meets other specified qualifications and passes the appropriate examination not earlier than two years before the date the executive director receives the application.

Requires the Texas Commission of Licensing and Regulation, in adopting rules relating to licensing, after consulting with the licensed court interpreter advisory board, to prescribe the minimum score an individual must achieve on an examination to receive a license that includes a basic designation or a master designation.

Requires that the same examinations must be used for issuing a license that includes a basic designation or master designation.

Requires the executive director to issue a new court interpreter license that includes a master designation to a person who holds a court interpreter license on September 1, 2011.

Court Reporter Service Fees in Certain Counties—H.B. 4529

by Representative Chavez—Senate Sponsor: Senator Shapleigh

Current law requires the clerk of each court that has an official court reporter to collect a court reporter fee of \$15. This fee finances court reporter services. This bill:

Requires the clerk of each court that has an official court reporter and that serves a county located on the Texas-Mexico border that contains a municipality with a population of 500,000 or more to collect a court reporter service fee of \$30 as a court cost in each civil case filed with the clerk to maintain a court reporter for assignment in the court.

Requires an accused or defendant, or a party to a civil suit, as applicable, to pay a court reporter service fee of \$30 in specified counties.

Relating to the County Court of Titus County—H.B. 4685 [VETOED]

by Representative Homer—Senate Sponsor: Senator Eltife

Under current Texas law, Titus County has no specific statute that sets the terms and jurisdiction of its constitutional county court. This bill:

Sets forth the jurisdiction of the County Court of Titus County.

Authorizes a judge of a district court in Titus County and the judge of the county court may enter into a written agreement granting the county court jurisdiction to hear certain cases.

Prohibits the county court judge from entering into such an agreement unless certain conditions are met.

Grants the county judge the same judicial immunity as the district court judge when presiding over cases authorized under such agreement.

Provides that all pleadings, documents, records, and other papers in district court cases heard by a county court judge remain under the control of the district clerk. The district clerk may establish a separate docket for the cases considered by the county court judge.

Fees Assessed in Ector County Courts at Law—H.B. 4718

by Representative Lewis—Senate Sponsor: Senator Seliger

Current law provides that a county court at law in Ector County has concurrent jurisdiction with a district court in certain proceedings. This bill:

Requires that the fees assessed in a case in which the county court at law has concurrent civil jurisdiction with the district court be the same as those that would be assessed in the district court.

Creating Additional County Courts at Law in Bexar County—H.B. 4741

by Representative Gutierrez—Senate Sponsor: Senator Uresti

Currently the county courts at law of Bexar County have a significant backlog of cases which are set for trial. This bill:

Creates the County Courts at Law No. 13, No. 14, and No. 15, of Bexar County, Texas.

Requires the County Court at Law No. 13 to give preference to certain criminal cases.

Recording Proceedings in a Municipal Court of Record in Austin—H.B. 4742

by Representative Naishtat—Senate Sponsor: Senator Watson

Current law requires the municipal court in Austin to use court reporters to record trials, but other municipal courts are permitted to record trials by an electronic recording device. This bill:

Repeals Section 30.00737, Government Code, which barred a municipal court of record in Austin from recording proceedings by a good quality electronic recording device.

Appointment of Magistrates in White Settlement Municipal Courts—H.B. 4750

by Representative Geren—Senate Sponsor: Senator Nelson

Current law authorizes some municipal courts of record to appoint magistrates. This bill:

Authorizes the appointment of one or more magistrates to act on behalf of a municipal court of record or a municipal court in the city of White Settlement.

Provides that a magistrate is not required to possess the qualifications of a municipal court of record judge.

Sets out the powers of such magistrates.

Creation of Additional County Courts at Law in Hidalgo County—H.B. 4793

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

The Hidalgo County court system has experienced an increase in its caseload. This bill:

Creates County Courts at Law No. 7 and No. 8 of Hidalgo County.

Provides that County Court at Law No. 7 of Hidalgo County is created on the effective date of this Act and County Court at Law No. 8 is created on September 1, 2012.

Creation of Certain Courts and the Composition of Certain Juvenile Boards—H.B. 4833

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

The legislature routinely approves the creation of new district courts and statutory county courts for counties with substantial judicial need and makes other necessary revisions to the judicial statutes. Also, military veterans suffering from a brain injury, mental illness, or mental disorders often have trouble reintegrating into civil society. There is a trend to establish programs diverting troubled veterans who have committed nonviolent offenses out of the criminal justice system and into counseling programs. This bill:

Provides that the terms of the 110th District Court begin on the first Mondays in January and July for all the affected counties.

Creates the:

- 431st Judicial District of Denton County;
- 432nd Judicial District of Tarrant County, which must give preference to criminal matters;
- 436th Judicial District of Bexar County, which must give preference to juvenile matters;

- 437th Judicial District of Bexar County, which must give preference to criminal matters;
- 438th Judicial District of Bexar County, which must give preference to civil matters;
- 439th Judicial District of Rockwall County;
- 441st Judicial District of Midland County;
- County Courts at Law No. 13, 14, and 15, of Bexar County and requires County Court at Law No. 13 to give preference to certain criminal cases;
- County Court at Law of Bosque County and sets forth its jurisdiction and other related issues;
- County Court at Law of Fannin County and sets forth its jurisdiction and other related issues;
- County Courts at Law No. 7 and No. 8 of Hidalgo County; and
- County Court at Law of Navarro County and sets forth its jurisdiction and other related issues.

Provides that the Hunt County Juvenile Board includes all judges of the county courts at law.

Provides that the Van Zandt County Juvenile Board includes the judge of the county court at law.

Grants the county court at law in Hunt County concurrent jurisdiction with the district court in certain matters, and provides that this concurrent in civil cases is limited to cases in which the matter in controversy does not exceed \$200,000. Sets forth other matters relating to the county court at law.

Grants the county court at law in Van Zandt County concurrent jurisdiction with the district court in certain matters, and provides that this concurrent in civil cases is limited to cases in which the matter in controversy does not exceed \$200,000. Sets forth other matters relating to the county court at law.

Authorizes the voters of Hale County to elect a district attorney for the 64th Judicial District who represents the state in that district court only in Hale County.

Includes the county attorney of Swisher County under Chapter 46.002 (Professional Prosecutors), Government Code.

Creates a veterans court program:

- Sets forth the essential characteristics of such program.
- Requires a court to dismiss a pending criminal case against a defendant if the defendant successfully completes a veterans court program, and after notice to the attorney representing the state and a hearing in the veterans court at which that court determines that a dismissal is in the best interest of justice.
- Authorizes the commissioners court of a county to establish a veterans court program for persons arrested for or charged with any misdemeanor or felony offense.
- Sets forth when a defendant is eligible to participate in a veterans court program.
- Sets forth the duties of a veterans court program.
- Provides that this Act not prevent the initiation of procedures under Chapter 46B (Incompetency to Stand Trial), Code of Criminal Procedure.
- Authorizes the commissioners courts of two or more counties to establish a regional veterans court program.
- Authorizes the lieutenant governor and the speaker of the house of representatives to assign to appropriate legislative committees duties relating to the oversight of veterans court programs.
- Authorizes a legislative committee or the governor to request the state auditor to perform a management, operations, or financial or accounting audit of a veterans court program.
- Requires a veterans court program to notify the criminal justice division of the governor's office before or on implementation of the program and to provide information regarding the performance of the program to that division on request.

- Authorizes a veterans court program to collect from program participants a reasonable program fee not to exceed \$1,000 and a fee in an amount necessary to cover the costs of any testing, counseling, or treatment provided under the program. Authorizes that such fees may be paid on a periodic basis or on a deferred payment schedule. Requires that the fee be based on the participant's ability to pay and be used only for purposes specific to the program.

Authorizes a person who has completed a pretrial intervention program to seek to have all records and files relating to his or her arrest expunged.

Administration of the Juvenile Justice Case Management System—S.B. 58

by Senator Zaffirini—House Sponsor: Representative Vaught

The Texas Juvenile Probation Commission is authorized to collect and maintain all information related to juvenile offenders and juvenile justice agencies are required to have access to all data in the system and are authorized to share information with appropriate partner agencies and other authorized entities. However, funds have not been secured to implement the system on a large scale. The counties also have their own computer systems. This bill:

Authorizes the Texas Juvenile Probation Commission, through the adoption of an interlocal contract with one or more counties, to:

- participate in and assist counties in the creation, operation, and maintenance of a statewide system;
- use funds appropriated for the implementation of the juvenile information system to pay costs incurred under an interlocal contract; and
- provide training services to counties on the use and operation of a system created, operated, or maintained by one or more counties.

Reimbursements for Jury Service Expenses—S.B. 397

by Senator Carona—House Sponsor: Representative Jim Jackson

Chapter 61 (General Provisions), Government Code, sets forth provisions relating to reimbursement for persons who report for jury service but does not provide a specific method for reimbursement of jury service. This bill:

Authorizes a county treasurer to disburse to a person who reports for jury service and discharges the person's duty the daily amount of reimbursement for jury service expenses by certain systems or methods of payment, which must be approved by the county commissioners court and administered in accordance with the procedures established by the county auditor or by the chief financial officer, as applicable.

Authorizes a payment system or method to be used in lieu of or in addition to the issuance of warrants or checks.

Authorizes a county that has adopted such a payment system or method to allow a juror an opportunity to donate all, or a specific part designated by the juror, of the juror's daily reimbursement.

Appointment of Part-Time Magistrates to Hear Truancy Cases—S.B. 407

by Senator Shapiro—House Sponsor: Representative Jim Jackson

Current law authorizes a constitutional county judge in a county with a population of two million or more to appoint one or more full-time magistrates to hear truancy matters. If one of these magistrates is absent, the county judge cannot appoint a temporary or part-time magistrate. This bill:

Authorizes the county judge to appoint one or more part-time magistrates to hear truancy matters.

Fees Charged by a Justice of the Peace for Certain Criminal Case Documents—S.B. 409

by Senator Carona—House Sponsor: Representative Naishtat

Currently, justices of the peace are required to collect fees for providing copies of documents held by the court. In practice, many justices of the peace do not charge criminal defendants, their attorneys, or prosecutors for copies of documents. This bill:

Provides that a justice of the peace is not entitled to a fee for the first copy of a document in a criminal case issued to a criminal defendant in the case, an attorney representing a criminal defendant in the case, or a prosecuting attorney.

Performance Evaluation Criteria for Judges Employed by a Municipality—S.B. 420

by Senator Carona—House Sponsor: Representative Hughes

Subsection (a) of Section 720.002 (Prohibition on Traffic-Offense Quotas), Transportation Code, prohibits a political subdivision or agency of the state from establishing or maintaining, formally or informally, a plan to evaluate, promote, compensate, or discipline certain judges based on the amount of money collected by that judge from traffic offenses. However, Subsection (c) provides that municipalities may consider the amount of money collected from a municipal court or a municipal court of record when evaluating the performance of a judge employed by that municipality. This bill:

Repeals Section 720.002(c), Transportation Code.

Money Paid Into Registry of a Court in Certain Counties—S.B. 490

by Senator West—House Sponsor: Representative Vaught

Currently, only Harris County has the authority to address certain funds deposited in the court's registry, including the establishment of special interest-bearing accounts. Funds deposited in the Dallas County District Clerk's registry are held in a non-interest bearing account unless the court has ordered that they be deposited for investment. Consequently, more than \$19 million in funds, which may be held for more than five years, do not have attached orders for investment, meaning the recipients of those funds are not being paid in current dollars. This bill:

Decreases the minimum population of a county to which special provisions related to funds paid into the registry of any court apply from 2.4 million to 1.3 million.

Compensation Paid to Certain Judges and Justices—S.B. 497

by Senator Wentworth—House Sponsor: Representative Hartnett

Current law authorizes longevity pay for district judges and appellate justices who have completed at least 16 years of service. Such pay encourages judges to stay on the bench. Despite provisions that expressly exclude longevity pay from the definition of state salary, the Office of the Comptroller of Public Accounts (comptroller) and the Texas Judicial Council have recommended that this exclusion be more clearly stated in statute.

Current law provides that a county judge is entitled to an annual salary supplement from the state if at least 40 percent of the functions that the judge performs are judicial functions and provides for an annual salary supplement for a district judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related

injuries. To receive the supplement, the county judge is required to file an affidavit with the Texas Office of Court Administration (OCA). OCA forwards the affidavit to the comptroller's office for payment, but has no other role in the salary supplement payment process. This bill:

Provides that a county judge, to receive the salary supplement, must file the affidavit with the comptroller's judiciary section, rather than OCA.

Provides that the salary supplement for a district judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries is to be paid to the judge by the comptroller's judiciary section, rather than the Texas Judicial Council.

Changes the formula for the monthly amount of longevity pay to an amount equal to the product of .031 multiplied by the amount of the judge's or justice's current monthly state salary

Authorizes commissioners court of a county to provide longevity pay a judge or justice who:

- previously served as a statutory county court judge in the county;
- is not otherwise eligible for longevity pay; and
- would be entitled to longevity pay if the service credit the judge or justice earned as a statutory county court judge was established in the applicable retirement system.

Provides that longevity pay that is paid to a judge or justice is not included as part of the judge's or justice's combined salary from state and county sources.

Establishment of a Regional Drug Court Program—S.B. 633

by Senator Seliger—House Sponsor: Representative Madden

Current law provides that three municipalities or counties may join together to create a regional drug court program. In some instances, a region may only need or be able to get a consortium of two counties or municipalities. This bill:

Reduces from three to two the number of counties or municipalities needed to create a regional drug court program.

Creating an Appellate Judicial System for the Sixth Court of Appeals District—S.B. 658

by Senator Eltife—House Sponsor: Representative Hughes

Current law allows for the establishment of an appellate judicial system to help fund the operations of an appellate court. The funding is achieved by a \$5 fee on civil cases filed in county, statutory county, probate, or district courts located in the appellate court's jurisdiction. This bill:

Requires the commissioners court of each county in the Sixth Court of Appeals District to establish an appellate judicial system for the Sixth Court of Appeals.

Sets forth provisions relating to the collection of fees and funding for the appellate judicial system.

Creating an Appellate Judicial System for the Twelfth Court of Appeals District—S.B. 659

by Senators Eltife and Nichols—House Sponsor: Representative Hughes

Current law allows for the establishment of an appellate judicial system to help fund the operations of an appellate court. The funding is achieved by a \$5 fee on civil cases filed in county, statutory county, probate, or district courts located in the appellate court's jurisdiction. This bill:

Requires the commissioners court of each county in the Sixth Court of Appeals District to establish an appellate judicial system for the Twelfth Court of Appeals.

Sets forth provisions relating to the collection of fees and funding for the appellate judicial system.

Qualifications for an Associate Judge or Visiting Associate Judge—S.B. 742

by Senator Wentworth—House Sponsor: Representative Hughes

Currently, the presiding judges of the administrative judicial regions have the authority to appoint associate judges and visiting associate judges to hear Title IV-D child support and child protection cases under Subchapters B (Associate Judge for Title IV-D Cases) and C (Associate Judge for Child Protection Cases), Chapter 201, Texas Family Code. The associate judges appointed under Subchapters B and C are state employees of the Office of Court Administration who work on statewide programs. The requirement that the person to be appointed have lived in the administrative judicial region to be served or an adjacent county limits the pool of persons eligible for appointment. This bill:

Provides that an associate judge or visiting associate judge for a Title IV-D case must have resided in Texas for the two years preceding the date of appointment and be:

- named on the list of retired and former judges maintained by the presiding judge of the administrative region under the Government Code; or
- licensed to practice law in this state and have been a practicing lawyer in this state, or a judge of a court in this state who is not on the list of retired and former judges, for the four years preceding the date of appointment.

Requires a judge appointed in a child protection case to have served as a master or associate judge for such cases, a district judge, or a statutory county court judge for at least two years before the date of appointment.

Authorizing Municipal Court Judges to Conduct Marriage Ceremonies—S.B. 935

by Senator Seliger—House Sponsor: Representative Guillen

Current law grants almost all federal, state, and county judges, except for municipal court judges, the authority to conduct marriage ceremonies. This bill:

Includes a judge of a municipal court in the statutory list of persons authorized to conduct a marriage ceremony.

Creating an Appellate Judicial System for the Seventh Court of Appeals District—S.B. 1208*by Senator Seliger—House Sponsor: Representative Smithee*

Current law authorizes the establishment of an appellate judicial system to help fund the operations of an appellate court. The funding is achieved by a \$5 fee on civil cases filed in county, statutory county, probate, or district courts located in the appellate court's jurisdiction. This bill:

Requires the commissioners court of each county in the Seventh Court of Appeals District to establish an appellate judicial system for the Seventh Court of Appeals.

Sets forth provisions relating to the collection of fees and funding for the appellate judicial system.

Electronic Storage of Court Records and Creating an Appellate Judicial System—S.B. 1259*by Senator Hegar—House Sponsor: Representative Hughes*

Current law authorizes the establishment of an appellate judicial system to help fund the operations of an appellate court. Also, under current law, the Texas Court of Criminal Appeals is authorized to digitize its files. The Texas Supreme Court and the courts of appeals lack this authority. This bill:

Requires the commissioners court of each county in the Seventh Court of Appeals District to establish an appellate judicial system for the Seventh Court of Appeals.

Sets forth provisions relating to the collection of fees and funding for this appellate judicial system.

Authorizes the clerk of the supreme court or of a court of appeals to maintain records and documents in an electronic storage format or on microfilm and provides that such records are considered original records or documents; destroy the originals or copies, if the clerk stores records electronically or on microfilm; and establish a records retention policy.

Defines "electronic storage" and "digital multimedia evidence."

Requires the Texas Supreme Court to adopt rules establishing procedures for protecting personal information contained in records and documents stored by the clerk of an appellate court in an electronic storage format and for accessing those records and documents.

Requires the supreme court, by rule, to define "personal information."

Provides that a person who complies with such rules is not liable for damages arising from the disclosure of such personal information.

Authorizes the clerk of the court of criminal appeals to accept electronic documents and digital multimedia evidence from certain persons; maintain records and documents on microfilm; and destroy the originals or copies, if the clerk stores records or documents on microfilm.

Requires the clerk of the district or county court to accept and file electronic documents and digital multimedia evidence received from the defendant, if the clerk accepts such documents or evidence from an attorney representing the state.

Summoning Jurors to Justice of the Peace Court in Certain Counties—S.B. 1274

by Senator Gallegos—House Sponsor: Representative Thompson

Under current law, a justice of the peace may only summon a prospective juror to the justice court in the precinct in which the prospective juror resides. This bill:

Authorizes a county with a population of 3.3 million or more to summon a prospective juror to report directly to a justice court in the precinct adjacent to the precinct in which that person resides.

Appeal of a Censure Issued by the State Commission on Judicial Conduct—S.B. 1436

by Senator Watson—House Sponsor: Representative Hartnett

Current law allows a judge who has been sanctioned by the State Commission on Judicial Conduct (SCJC) to appeal from a sanction, but provides no right to appeal from a censure. This bill:

Authorizes the appeal of a censure issued by SCJS.

Provides that the review of a censure is:

- on the record of the proceedings that resulted in the censure; and
- based on the law and facts presented in the proceedings and any additional evidence that the court may permit when good cause has been shown.

Powers of an Associate Judge in a Title IV-D Case—S.B. 1437

by Senator Watson—House Sponsor: Representative Hunter

Currently, only the referring court is authorized to hear post-trial motions in a Title IV-D case (child support enforcement under Part D of Title IV of the federal Social Security Act), even if a party has not requested a de novo review before the referring court of the associate judge's order or judgment. This bill:

Authorizes an associate judge to hear and render an order on a motion for postjudgment relief, including a motion for a new trial or to vacate, correct, or reform a judgment, if neither party has requested a de novo hearing before the referring court.

Expenses of an Appointee of the State Commission on Judicial Conduct—S.B. 1439

by Senator Watson—House Sponsor: Representative Leibowitz

Current law does not expressly authorize the State Commission on Judicial Conduct (SCJC) to reimburse the necessary expenses of special counsel for SCJC or other persons appointed to assist SCJC in performing its duties. This bill:

Provides that a special counsel, or any other person appointed by SCJC to assist it in performing its duties, is entitled to necessary expenses for travel, board, and lodging incurred in the performance of official duties.

Orders and Judgments Rendered by Associate Judges—S.B. 1440 [VETOED]

by Senators Watson and Zaffirini—House Sponsor: Representative Madden

Under current law, an associate judge's proposed order or judgment regarding child support or child protection requires the signature of the referring court in order to become the order of the referring court. This bill:

Provides that a proposed order or judgment of the associate judge, other than for enforcement by contempt or the immediate incarceration of a party, becomes the order or judgment of the referring court without the signature of the judge of the referring court if there is no timely request for a de novo hearing before the referring court or the right to such hearing is waived.

Authorizes the Department of Family and Protective Services (DFPS), without filing suit, to seek a court order in aid of an investigation regarding interference with an investigation of a report of child abuse or neglect.

Authorizes a court to render an order to assist DFPS in such an investigation.

Authorizes a court having family law jurisdiction, including any associate judge designated by the court, in an investigation of child neglect or abuse, on presentation of an application supported by an affidavit described this Act and on finding that the affidavit is sufficient, without prior notice or a hearing, to order:

- the admission to any place, the transport of the child, or both entrance and transport for the purpose of an interview, examination, and investigation;
- the release of a child's prior medical, psychological, or psychiatric records or the medical, psychological, or psychiatric examination of the child; and
- the release of records relating to a child that are relevant to an investigation.

Sets forth what must be included in the affidavit.

Provides that the application and supporting affidavit may be filed on any day, including Sunday.

Authorizes a court to designate an associate judge to render an order in aid of an investigation. An order rendered by an associate judge is immediately effective without the ratification or signature of the court making the designation.

Requires DFPS, soon as practicable after executing the order or attempting to execute the order, to file with the clerk of the court that rendered the order a written report and sets forth what must be contained in such report.

Sets forth record-keeping requirements for a court issuing an order in aid of an investigation under this Act.

Requires DFPS, if it files a suit under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child), Family Code, to include with its original petition a copy of the record of all the proceedings regarding the investigation of child abuse or neglect.

Requires DFPS, soon as practicable after obtaining access to records of a child under an order in aid of an investigation, to notify the child's parents or another person with legal custody of the child that DFPS has obtained the records.

Provides that the Act does not prevent a court from requiring notice and a hearing before issuance of an order in aid of an investigation if the court makes certain determinations.

Provides that a court's denial of a request for an ex parte order does not prevent the issuance of a criminal warrant.

Concurrent Jurisdiction of Certain Municipal Courts—S.B. 1504

by Senator Whitmire—House Sponsor: Representative Woolley

Currently, the territorial limits of a municipality grant a municipal court exclusive original jurisdiction over misdemeanor offenses occurring within the municipality. However, it may be difficult to determine the appropriate jurisdiction for a largely populated municipality and a contiguous municipality. This bill:

Authorizes a municipality with a population of 1.9 million or more and a municipality contiguous to that municipality to enter into an agreement providing concurrent jurisdiction for the municipal courts of either jurisdiction for all criminal cases arising from offenses under state law that are committed on the boundary of those municipalities or within 200 yards of that boundary and are punishable by fine only.

Random Assignment of Cases in Hidalgo County District Courts—S.B. 1575

by Senator Hinojosa—House Sponsor: Representative "Mando" Martinez

Current statutes require all civil and criminal cases in certain Hidalgo County district courts to be assigned at random. This bill:

Requires that all civil and criminal cases in the district courts in Hidalgo County be assigned and docketed at random by the district clerk using an automated system.

Requires the clerk in assigning a case to consider any requirement that a district court give preference to specific matters.

Creation of District Court Records Technology Fund—S.B. 1685

by Senator Hinojosa—House Sponsor: Representative Gonzales

State law requires district clerks to maintain large amounts of court records permanently. This bill:

Defines "court document," "deterioration," "preservation," and "restoration."

Authorizes a county commissioners court to adopt a district court records archive fee of not more than \$5 for the filing of a suit.

Requires the fee to be set and itemized in the county's budget and approved in a public meeting.

Provides that the fee is to be used only for the preservation and restoration of a district court records archive.

Requires the establishment of a district court records technology fund in the general fund of the county for the deposit of such fees.

Requires the district clerk to:

- designate the court documents that are part of the records archive, subject to approval by the commissioners court in a public meeting; and
- prepare an annual written plan for the preservation and restoration of the district court records archive, which must be approved by the commissioners court. Money in the fund may be expended only as provided by the plan and expenditures must comply with the Local Government Code.

Requires the county to post a notice in a conspicuous place in the district clerk's office regarding the fee.

Authorizes money remaining after completion of an archive preservation and restoration project to be expended for records management and preservation purposes in the manner.

Prohibits the commissioners court from imposing a fee after completion of the preservation and restoration project.

39th Judicial District Juvenile Board—S.B. 1811

by Senators Duncan and Estes—House Sponsor: Representative Hardcastle

The 39th Judicial District consists of Haskell, Kent, Stonewall, and Throckmorton counties. The district judge and the county judges from each county have been acting as the 39th Judicial District Juvenile Board, but there is no specific statute authorizing their operation. This bill:

Provides that the juvenile board is composed of the county judges of Haskell County, Kent County, Stonewall County, Throckmorton County, and the 39th Judicial District judge.

Requires the commissioners court of each county to:

- pay the county judge and the 39th Judicial District judge additional annual compensation of not more than \$6,000 for the added duties imposed on the judges under this Act;
- reimburse the juvenile court judge for the judge's actual and necessary expenses incurred in attending educational meetings related to juvenile problems, if approved by the juvenile board;
- jointly provide the necessary funds to pay the salaries of the juvenile probation personnel in the amount set by the juvenile board; and
- jointly pay the expenses of the juvenile probation officers certified as necessary by the juvenile board chairman and in the amount set by the juvenile board.

Creation of Harris County Court With Preference to Domestic Violence Cases—S.B. 2217

by Senator Ellis—House Sponsor: Representatives Woolley and Thompson

The enormous caseload of the Harris County Family Trial Division makes it difficult for the family courts to provide relief to domestic victims within the time limits provided by law. This bill:

Requires the judges of the enumerated Harris County district courts to designate one of the listed district courts as the domestic violence district court for Harris County.

Requires the judges, in designating the domestic violence district court, to give preference to a district court that meets certain specified criteria.

Requires the designated district court to:

- give preference to domestic violence cases;
- provide timely and efficient access to emergency protective orders and other court remedies for victims of domestic violence;
- integrate victims' services for victims of domestic violence who have a case before the court; and
- promote an informed and consistent court response to domestic violence cases.

Defines "domestic violence case."

Requires the Harris County district clerk to create a form and establish procedures to transfer a domestic violence case that qualifies for preference under this Act to the designated court.

Bosque County Court at Law—S.B. 2229

by Senator Averitt—House Sponsor: Representative Orr

It may be necessary to create new courts to response to a growing population or an increased caseload. This bill:

Creates the County Court at Law of Bosque County.

Sets forth the jurisdiction of this court, the compensation of the judge, and other court-related matters.

Adds the judge of this court to the Bosque, Comanche, and Hamilton counties juvenile board.

Jurisdiction and Operation of the McLennan County District Courts—S.B. 2230

by Senator Averitt—House Sponsor: Representative Anderson

District court judges say that offenders with both misdemeanor and felony charges frequently come before them and that it would more efficient if they could hear the misdemeanor and felony charges at the same time. This bill:

Provides that the 19th, 54th, 74th, 170th, and 414th district courts have concurrent jurisdiction in McLennan County.

Provides that the 19th, 54th, 74th, 170th, and 414th district courts have concurrent jurisdiction with the county court and the statutory county courts of McLennan County in misdemeanor cases.

Sets out the terms of the 414th District Court.

Provides that certain provisions relating to the 19th District Court are also applicable to the 414th District Court.

Dedication of Certain Civil Penalties to Civil Indigent Legal Services—S.B. 2279

by Senators Ellis and Zaffirini—House Sponsor: Representative Sylvester Turner

The Business and Commerce Code provides for civil penalties against persons or organizations for fraudulent and abusive business practices or for engaging in certain prohibited business practices. In many cases, the case settlement provides for reimbursement of the attorney general for investigative and other fees and for the restitution of any affected customers. Any remaining civil penalty is directed into the state treasury. This bill:

Requires the comptroller of public accounts to credit to the judicial fund for programs providing basic civil legal services to the indigent the net amount of a civil penalty that is recovered in certain actions by the attorney general under the Business and Commerce Code, after deducting amounts allocated to or retained by the attorney general as authorized by law, unless another law requires that the penalty be credited to a different fund or account; or the judgment requires that the penalty be paid to another recipient.

Limits the total amount credited to the judicial fund for such programs to \$10 million per state fiscal biennium.

Preferences of Certain Tarrant County District Courts—S.B. 2454*by Senator Harris—House Sponsor: Representative Todd Smith*

The 17th, 48th, 67th, 96th, 141st, 153rd, and 236th district courts in Tarrant County have been civil courts since their inception, but they have not been given a formal preference. This bill:

Requires the 17th, 48th, 67th, 96th, 141st, 153rd, and 236th district courts to give preference to civil matters.

Creation of Additional County Courts at Law in Hidalgo County—S.B. 2469*by Senators Hinojosa and Lucio—House Sponsor: Representative Gonzales*

Hidalgo County has seen an increase of in its courts' pending caseload. This bill:

Creates the following Hidalgo County county courts at law:

- County Court at Law No. 7 on the effective date of this Act; and
- County Court at Law No. 8 on September 1, 2012.

Appointment of a Bailiff for the 130th Judicial District—S.B. 2554*by Senator Hegar—House Sponsor: Representative Webber*

Currently, judges serving in the 34th, 86th, 142nd, 238th, 318th, 355th, and 385th district courts are authorized to select bailiffs. This bill:

Authorizes the judge of the 130th district court to appoint a bailiff.

Sets forth the compensation for such bailiff.

Waiting Period for Certain Divorce Decrees—H.B. 72

by Representative Guillen et al.—Senate Sponsor: Senator Zaffirini

There is a 60-day waiting following the filing of a divorce suit before the divorce is granted. This bill:

Eliminates the waiting period in certain cases if the respondent committed family violence against the petitioner or a member of the petitioner's household.

Barratry and Solicitation of Professional Employment—H.B. 148

by Representative Todd Smith—Senate Sponsor: Senator Wentworth

Barratry is the offense of instigating lawsuits, generally groundless ones, and is a felony in Texas under certain circumstances. The Texas Penal Code sets forth the offense of barratry and provides that it is a crime for certain health and legal professionals to solicit employment through certain written communications.

The purpose of the statute is to protect those who may be in a vulnerable state from improper or invasive solicitation practices. This bill:

Expands current statute to include to provide that it is a crime for certain health and legal professionals to solicit employment in person or by telephone.

Expunction of a Notice of Lis Pendens—H.B. 396

by Representative Hartnett—Senate Sponsor: Senator Carona

The Texas Property Code provides that recording a lis pendens with the county clerk alerts potential purchasers or lenders that the property or its title is contested in some way. This bill:

Requires the person filing a lis pendens to serve a copy on each party to an action who has an interest in the affected real property.

Authorizes a party to the action to seek to expunge the lis pendens and sets out the court procedure.

Changing References to Minutes in the Texas Probate Code—H.B. 585

by Representative Naishtat—Senate Sponsor: Senator Watson

Texas Probate Code makes reference to minutes kept by judges concerning certain cases before a probate court. Probate judges no longer keep minutes, but instead maintain records of the cases through entries in the judge's probate docket or guardianship docket. This bill:

Changes the references to "minutes" in the Texas Probate Code to "judge's probate docket" or "judge's guardianship docket," and makes conforming changes.

Attorney's Fees for an Attorney Representing a Guardianship Applicant—H.B. 587*by Representative Naishtat—Senate Sponsor: Senator Watson*

When a court grants an application for guardianship for a ward, the court may authorize payment of the applicant's attorney's fees from the county treasury. There is no provision to ensure that such fees are not paid from county resources if the fees have already been paid or might be paid from another source. This bill:

Clarifies that the court creating a guardianship for a ward may authorize the payment of reasonable and necessary attorney's fees, as determined by the court, to an attorney representing the applicant.

Provides that such fees may be paid from the county treasury only if the court is satisfied that the attorney has not received, and is not seeking, payment from any other source.

Time for Payment to Certain Trustee After Public Foreclosure Sale—H.B. 655*by Representative Solomons—Senate Sponsor: Senator Seliger*

The Texas Property Code requires that the purchase price in a sale held by a trustee be payable immediately. Consequently, trustees can refuse any potential parties from bidding on the property without the exact amount of the awarded bid in the form of a cashier's check or certified check. This bill:

Provides that the purchase price is due and payable without delay on acceptance of the bid or within such reasonable time as may be agreed upon by the purchaser and the trustee or substitute trustee if the purchaser requests additional time to deliver the purchase price.

Liability Arising from the Filing of a Certain Lien—H.B. 669*by Representative Solomons and Todd Smith—Senate Sponsor: Senator Harris*

Texas law provides for criminal penalties for filing a fraudulent lien or claim against real or personal property. The potential liability for such an offense is \$10,000, plus exemplary damages. Contractors and others seeking to collect an unpaid debt may be dissuaded from filing a mechanic's, contractor's, or materialman's lien because of the potential criminal liability if the claimant makes a clerical mistake or other error. This bill:

Provides that a person claiming a mechanic's, contractor's, or materialman's lien is not liable for the making, presentation, or use of a document or other record in connection with the assertion of the claim unless the person acts with intent to defraud.

Qualified Privilege of Journalist Not to Testify—H.B. 670*by Representative Martinez Fischer et al.—Senate Sponsor: Senator Ellis*

Journalists may report on significant issues of public interest, such as government corruption and corporate malfeasance, and often depend on information provided by whistleblowers or other persons, who may fear retribution if their identity is made public. However, a journalist who seeks to keep a source's identity confidential when subpoenaed for such information risks punishment for contempt of court. Thirty-six states and the District of Columbia provide journalists limited protection regarding the confidentiality of their sources. This bill:

Adds Subchapter C (Journalist's Qualified Testimonial Privilege in Civil Proceedings) to Chapter 22 of the Texas Civil Practices and Remedies Code.

Defines "communication service provider," "journalist," "news medium," and "public servant."

States that the purpose of the law is to increase the free flow of information, preserve a free and active press, and protect the right of the public to effective law enforcement and the fair administration of justice.

Provides that under the Civil Practices and Remedies Code, except as otherwise provided, a judicial, legislative, administrative, or other body with subpoena authority may not compel a journalist or communication service provider to testify regarding or to produce or disclose any confidential or nonconfidential information, document, or item obtained or prepared while acting as a journalist; or the source of any such information, document, or item.

Authorizes a court, after notice and an opportunity to be heard, to compel a journalist or certain other persons associated with the journalist to testify regarding or to produce or disclose any information, document, item, or source obtained while acting as a journalist, if the person seeking production or disclosure makes a clear and specific showing that:

- all reasonable efforts to obtain the information from alternative sources have been exhausted;
- the subpoena is not overbroad, unreasonable, or oppressive and, when appropriate, will be limited to the verification of published information and the surrounding circumstances relating to the accuracy of the published information;
- reasonable and timely notice was given of the demand for the information, document, or item;
- the interest of the party subpoenaing the information outweighs the public interest in the gathering and dissemination of news;
- the subpoena or compulsory process is not being used to obtain peripheral, nonessential, or speculative information; and
- the information, document, or item is relevant and material to the proper administration of the official proceeding and is essential to the maintenance of a claim or defense of the person seeking the testimony, production, or disclosure.

Requires that an order to compel testimony, production, or disclosure include clear and specific findings as to the showing made by the person seeking the testimony, production, or disclosure and the clear and specific evidence on which the court relied in issuing the court's order.

Provides that the publication or dissemination by a news medium or communication service provider is not a waiver of the journalist's privilege.

Provides that extrinsic evidence of the authenticity of evidence as a condition precedent to the admissibility of the evidence in a civil proceeding is not required with respect to a recording that purports to be a broadcast by a radio or television station that holds a license issued by the Federal Communications Commission.

Adds Articles 38.11 (Journalist's Qualified Testimonial Privilege in Criminal Proceedings) and 38.111 (News Media Recordings) to the Texas Code of Criminal Procedure that.

Defines "communication service provider," "journalist," "news medium," and "public servant."

States that the purpose of the law is to increase the free flow of information, preserve a free and active press, and protect the right of the public to effective law enforcement and the fair administration of justice.

Provides that in criminal proceedings, a journalist may be compelled to testify regarding or to disclose the confidential source of any information, document, or item obtained while acting as a journalist if the person seeking the testimony, production, or disclosure makes a clear and specific showing that the source:

- was observed by the journalist committing a felony criminal offense, is a person who confessed or admitted to the journalist the commission of a felony criminal offense, or is a person for whom probable cause exists that the person participated in a felony criminal offense, and the subpoenaing party has exhausted reasonable efforts to obtain from alternative sources the confidential source of any information, document, or item obtained or prepared while acting as a journalist; or
- disclosure of the confidential source is reasonably necessary to stop or prevent reasonably certain death or substantial bodily harm.

Provides that if the information, document, or item was disclosed or received in violation of a grand jury oath given to either a juror or a witness, a journalist may be compelled to testify if the person seeking the testimony, production, or disclosure makes a clear and specific showing that the subpoenaing party has exhausted reasonable efforts to obtain from alternative sources the confidential source of any information, document, or item obtained. Such hearing may be in camera.

Requires that the application for certain subpoenas of a journalist under the Code of Criminal Procedure must be signed by the elected district attorney, elected criminal district attorney, or elected county attorney, as applicable, or, if such person has been disqualified or recused or has resigned, his or her successor. If the elected officer is not in the jurisdiction, the highest ranking assistant to that officer must sign the subpoena.

Provides that if the alleged criminal conduct is the act of communicating, receiving, or possessing the information, document, or item, after service of subpoena and an opportunity to be heard, a court may compel a journalist or certain other persons associated with the journalist to testify regarding or to produce or disclose any unpublished information, document, or item or the source of any information, document, or item obtained while acting as a journalist, if the person seeking the unpublished information, document, or item or the source of any information, document, or item makes a clear and specific showing that:

all reasonable efforts have been exhausted to obtain the information from alternative sources; and
the unpublished information, document, or item:

- is relevant and material to the proper administration of the official proceeding for which the testimony, production, or disclosure is sought and is essential to the maintenance of a claim or defense of the person seeking the testimony, production, or disclosure; or
- is central to the investigation or prosecution of a criminal case and based on something other than the assertion of the person requesting the subpoena, reasonable grounds exist to believe that a crime has occurred.

Requires a court, when considering an order to compel testimony regarding or to produce or disclose any unpublished information, document, or item or the source of any information, document, or item obtained while acting as a journalist, to consider the following factors, including but not limited to, whether:

the subpoena is overbroad, unreasonable, or oppressive;
reasonable and timely notice was given of the demand for the information, document, or item;
the interest of the party subpoenaing the information outweighs the public interest in gathering and dissemination of news; and
the subpoena or compulsory process is being used to obtain peripheral, nonessential, or speculative information.

Provides that an order to compel testimony, production, or disclosure to which a journalist has asserted a privilege may be issued only after timely notice and hearing.

Requires the order to include clear and specific findings as to the showing made by the person seeking the testimony, production, or disclosure and the clear and specific evidence on which the court relied in issuing the court's order.

Provides that the publication or dissemination by a news medium or communication service provider of privileged information, documents, or items is not a waiver of the journalist's privilege regarding sources and unpublished information, documents, or items.

Provides that Article 38.11 does not apply to any information, document, or item that has at any time been published or broadcast by the journalist.

Requires the subpoenaing party to pay a journalist a reasonable fee for the journalist's time and costs incurred in providing the information, item, or document subpoenaed, based on the fee structure provided under the Texas Government Code.

Provides that extrinsic evidence of the authenticity of evidence as a condition precedent to the admissibility of the evidence in a criminal proceeding is not required with respect to a recording that purports to be a broadcast by a radio or television station that holds a license issued by the Federal Communications Commission.

Conservatorship or Possession of, or Access to, a Child—H.B. 1012

by Representative Gonzalez Toureilles—Senate Sponsor: Senator Harris

In 2005, the 79th Legislature amended the Texas Family Code to require parenting plans in child custody lawsuits and established procedures for their use. Temporary and final orders in child custody lawsuits must include final parenting plans establishing the parents' rights and duties. There is a need again to revise and update Family Code provisions relating to possession of or access to a child. This bill:

Requires a court to grant a sibling access to a child if access is in the child's best interest.

Provides that the minimum qualifications for a social study evaluator under the Family Code do not apply to certain individuals.

Requires a court to adopt the provisions of a written agreed parenting plan appointing the parents as joint managing conservators if the parenting plan meets certain requirements.

Defines "school" as used in a standard possession order.

Revises provisions regarding the possession of a child when the parents reside 100 miles or less apart, when the parents reside over 100 miles apart, and when a weekend period of possession is extended by a holiday.

Requires a court, at the conservator's election, to provide for enumerated alternative beginning and ending possession times, unless the court finds that the election is not in the child's best interest.

Requires a person filing suit for possession or access by grandparent to provide an affidavit on knowledge or belief alleging that denial of possession of or access to the child by the petitioner would significantly impair the child's physical health or emotional well-being. The court can grant the relief sought only if it determines that the stated facts, if true, support such relief.

Sets out specific statements that must be included in an order granting possession of or access to a child by a grandparent over a parent's objections.

Requires a court, when determining whether there is a risk of a parent's international abduction of a child, to consider evidence that the parent obtained travel documents for the parent or the child. The court must also consider evidence that the parent was engaging in such activities as a part of a safety plan to flee family violence.

Defines "parenting facilitator" and sets out the qualifications and duties of, standards of care for, and ethical guidelines and conflicts of interest regarding, a parenting facilitator.

Sets out when a court, in a suit affecting the parent-child relationship, may appoint a parenting facilitator and requires the court to specify the facilitator's duties.

Sets out additional duties and qualifications of a parenting coordinator and requires a parenting coordinator to comply with certain ethical guidelines.

Authorizes a court to remove a parenting facilitator or parenting coordinator under certain circumstances.

Requires parenting coordinator or parenting facilitator to submit certain written reports.

Authorizes a parenting facilitator to make certain recommendations or clarifications.

Provides that a communication or record made by a participant in parenting facilitation is subject to disclosure. Sets out the retention period for such records .

Sets out the compensation for a parenting facilitator.

Sets out possession of a child when the conservator is called to military service:

- Defines "designated person," "military deployment," "military mobilization," and "temporary military duty."
- Provides that if conservator ordered to military service must move a substantial distance that materially affects the conservator's ability to exercise his or her rights and duties in relation to a child, either conservator may file for a temporary order regarding possession of or access to a child or child support.
- Authorizes a court to render a temporary order regarding possession of or access to the child or child support. A temporary order may grant rights and duties to a designated person regarding the child, but cannot require the designated person to pay child support.
- Provides that following a conservator's return after conclusion of the military service, the temporary orders terminate and the affected parties are governed by any preexisting orders.
- Authorizes a court, if the conservator with the exclusive right to designate the primary residence of the child is ordered to military service, to render a temporary order appointing a designated person to exercise such right and sets out, in order of preference, who is eligible to be such designated person.
- Grants the designated person the rights and duties of a nonparent appointed as sole managing conservator. The court may limit or expand these rights in the child's best interest.
- Authorizes the court, when appointing the conservator without the exclusive right to designate the primary residence of the child, to award visitation with the child to a designated person chosen by the conservator with the exclusive right to designate the primary residence of the child. Sets out the periods of visitation and what the temporary visitation order must provide.

- Authorizes a court, if the conservator without the exclusive right to designate the primary residence of the child is ordered to military service, to award visitation with the child to a designated person chosen by that conservator, if the visitation is in the best interest of the child. Sets out what the temporary visitation order must provide.
- Provides that a temporary order may justify modifying the child support obligations of a party.
- Provides for an expedited hearing if the conservator's military duties materially effect the conservator's ability to appear in person and allows testimony and evidence by electronic means.
- Provides that temporary orders may be enforced by or against the designated person to the same extent that an order would be enforceable against the conservator who has been ordered to military service
- Authorizes the conservator without the exclusive right to designate the primary residence of the child who is a member of the armed services, within 90 days after conclusion of the military service, to petition the court to award the conservator additional compensatory periods of possession of or access to the child.
- Authorizes the court to award such additional periods if the court determines that, because of the conservator's military service, access to the child was not reasonably possible and that such additional periods are in the child's best interest.

Authorizes the sibling of a child who is separated from the child because of Department of Family and Protective Services actions to file a suit requesting access to the child.

Permits a court, while a suit for modification is pending, to render a temporary order changing the designation of the person who has the exclusive right to designate the primary residence of the child if the temporary order is in the best interest of the child. Such an order may be issued if the child is 12 years of age or older and has expressed to the court the child's preference regarding the person to have the exclusive right to designate the primary residence of the child

Prohibits a court from rendering temporary order that changes the designation of the person who has the exclusive right to designate the primary residence of the child if that person temporarily relinquished care and possession to another person during the conservator's military service.

Provides that the military service of a conservator does not by itself constitute a material and substantial change of circumstances sufficient to justify a modification of an existing court order or the terms and conditions for the possession of or access to a child.

Requires certain enumerated state agencies, not later than March 1, 2011, to adopt rules establishing parenting facilitator practice standards.

Mediation Orders in Certain Arbitration Proceedings—H.B. 1083

by Representative Elkins—Senate Sponsor: Senator Wentworth

Mediation is a form of alternative dispute resolution in which a neutral third party works with the opposing parties to try to reach an agreed resolution. Some Texas courts are mandating parties engage in mediation when an action is filed. However, many contracts contain provisions providing for the arbitration of disputes and the Federal Arbitration Act provides that such written agreements are valid and enforceable. This bill:

Prohibits a court, unless agreed upon by the parties, from ordering mediation in an action that is subject to the Federal Arbitration Act.

Matters Affecting the Parent-Child Relationship—H.B. 1151

by Representative Thompson—Senate Sponsor: Senator West

Provisions of the Texas Family Code regarding suits affecting the parent-child relationship, including temporary orders, orders for modification, adoption assistance, and foster care need to be clarified and updated. This bill:

Provides that payments for foster care of a child are not included in net resources for the purposes of computing the payment of child support.

Permits a court while a suit for modification is pending to render a temporary order that has the effect of changing the designation of the person who has the exclusive right to designate the primary residence of the child under the final order if the temporary order is in the best interest of the child. Such an order may be issued if the child is 12 years of age or older and has expressed to the court the child's preference regarding the person to have the exclusive right to designate the primary residence of the child.

Requires the Department of Protective and Regulatory Services (DPRS), if DPRS first entered into an adoption assistance agreement with a child's adoptive parents after the child's 16th birthday, to, in accordance with rules adopted by the executive commissioner (commissioner) of the Health and Human Services Commission, offer adoption assistance after the child's 18th birthday to the child's adoptive parents until the last day of the month of the child's 21st birthday, provided certain enumerated conditions are met. DPRS is not required to provide adoption assistance unless funds are specifically appropriated for such purposes.

Requires the Department of Family and Protective Services (DFPS) to include trauma-informed programs and services in any training DFPS provides to foster parents, adoptive parents, kinship caregivers, and department caseworkers. DFPS must pay for this training with gifts, donations, and grants and any available federal money.

Requires DFPS to continue to pay the cost of foster care for a child for whom DFPS provides care until the last day of the month in which the child attains the age of 18. DFPS must continue to pay the cost of foster care for a child after the month in which the child attains the age of 18 as long as certain conditions are met.

Provides that a "designated caregiver" or "relative caregiver" is a person who is not licensed by DFPS or verified by a licensed child-placing agency or DFPS to operate a foster home.

Provides that a relative or other designated caregiver who becomes licensed by DFPS or verified by a licensed child-placing agency or DFPS to operate a foster home may receive foster care payments in lieu of certain benefits.

Creates the Permanency Care Assistance Program:

- Requires DFPS to enter into a permanency care assistance agreement (agreement) with a kinship provider who is eligible to receive permanency care assistance benefits.
- Authorizes DFPS to enter into an agreement with a kinship provider who is the prospective managing conservator of a foster child only if the kinship provider meets the eligibility criteria under federal and state law and DFPS rules.
- Prohibits a court from ordering DFPS to enter into an agreement with a kinship provider unless the kinship provider meets certain eligibility criteria.

- Provides that an agreement may provide for reimbursement of the nonrecurring expenses a kinship provider incurs in obtaining permanent managing conservatorship of a foster child, up to \$2,000.
- Requires the commissioner to adopt rules implementing the permanency care assistance program and to set the maximum monthly amount of assistance payments under an agreement in an amount that does not exceed the amount of the monthly foster care maintenance payment DFPS would pay to a foster care provider caring for that child.
- Provides that if DFPS first entered into an agreement with a foster child's kinship provider after the child's 16th birthday, DFPS may continue to provide permanency care assistance payments until the last day of the month of the child's 21st birthday, provided certain conditions are met.
- Provides that DFPS is not required to provide permanency care assistance benefits unless DFPS is specifically appropriated money for such purposes.
- Requires the commissioner, not later than April 1, 2010, to adopt rules to implement and administer this Act and sets out what the rules must include.

Persons Authorized to Administer an Oath—H.B. 1285

by Representatives Eiland and Gutierrez—Senate Sponsor: Senator Huffman

Texas law authorizes certain officials to administer an oath while in office, but provides that only a retired judge has the authority to administer an oath after leaving office. This bill:

Authorizes a former governor, lieutenant governor, secretary of state, attorney general, or speaker of the house of representatives; and an employee of a county, who is employed to obtain information required to be obtained under oath, in certain circumstances, to administer an oath.

Contents of an Application for Probate of a Written Will—H.B. 1460

by Representative Paxton—Senate Sponsor: Senator Wentworth

In the current probate application process, the applicant must list whether the decedent was ever divorced, and if so, when and from whom. This bill:

Requires that an application for probate of a written will declare whether a marriage of the decedent was ever dissolved after the will was made, whether by divorce, annulment, or a declaration that the marriage was void.

Application for Probate of a Written Will as a Muniment of Title—H.B. 1461

by Representative Paxton—Senate Sponsor: Senator Wentworth

When a decedent's estate includes only real estate in Texas, the estate may be probated by a "muniment of title," which treats the will as a deed. In the current application process, the applicant must list whether the decedent was ever divorced, and if so, when and from whom. This bill:

Requires that an application for probate of a will as a muniment of title declare whether a marriage of the decedent was ever dissolved after the will was made, whether by divorce, annulment, or a declaration that the marriage was void.

Joinder of Tax Lien Transferee in a Tax Collection Suit—H.B. 1465

by Representative Paxton—Senate Sponsor: Senator Wentworth

The Texas Tax Code authorizes a person to pay the real property taxes of a property owner, and the tax liens on the real property are transferred from a taxing unit to that person. Current law does not address the situation when a taxing unit and such transferee both hold tax liens on the same property, but for different tax years, and the taxing unit files for foreclosure of its lien. This bill:

Requires a taxing unit to join a tax lien transferee when it files suit to foreclose its own lien for delinquent property taxes.

Provides that after joinder, a transferee is entitled to foreclose its lien for all amounts secured by the transferred tax lien.

Authorizes a transferee, in the alternative, to pay all taxes and other costs to the taxing unit and requires the taxing unit to then transfer its tax lien to the transferee

Provides that upon the transfer of all applicable tax liens, the transferee may foreclose all tax liens.

Extinguishes tax liens held by a transferee who is joined under this Act, but fails to act.

Service of Process for Delinquent Taxes on a Nonresident—H.B. 1804

by Representative Hughes—Senate Sponsor: Senator Watson

Entities collecting taxes for local jurisdictions have a difficult time formally serving notice of a tax delinquency to nonresident owners of property who live outside of the state. This bill:

Provides that in a suit to collect delinquent property taxes in which the property owner is a nonresident, the secretary of state (SOS) is the agent for service of process on that defendant regardless of whether the defendant has resided in Texas.

Sets out the procedure for service of process on SOS.

Requires SOS, immediately after being served, to mail a copy of the process to the nonresident by certified mail, return receipt requested, with the postage prepaid. SOS must certify to the court issuing the process that it has complied with this Act.

Enforcement of a Penalty Clause for Contesting a Will or Trust—H.B. 1969

by Representative Hartnett—Senate Sponsor: Senator Watson

Estate planners commonly include forfeiture clauses in wills and trusts, providing that any beneficiary who challenges the validity of the will or trust will forfeit all benefits. This bill:

Provides that forfeiture clauses in wills and trusts are unenforceable when probable cause exists for bringing the action and the action was brought and maintained in good faith.

Revision of Certain Laws Regarding Trusts—H.B. 2368

by Representative Harnett—Senate Sponsor: Senator Watson

The Real Estate, Probate, and Trust Law Section of the State Bar of Texas has proposed several changes affecting trusts. This bill:

Authorizes an independent administrator of a deceased beneficiary to disclaim an interest in a trust created in any manner other than by will in certain circumstances.

Requires the trustee of a trust to exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

Limits the power of a trustee to make certain discretionary distributions.

Authorizes a court, in a proceeding regarding a trust, to appoint an attorney ad litem to represent any interest that the court considers necessary. Sets out the compensation for both an attorney ad litem and a guardian ad litem.

Defines "separate fund" under the Uniform Principal and Income Act and sets out the allocation of payments made from such fund.

Nonsubstantive Revision of the Texas Probate Code—H.B. 2502

by Representative Hartnett—Senate Sponsor: Senator Duncan

The Texas Legislative Council is required by law to carry out a complete nonsubstantive revision of the Texas statutes. This bill:

Makes nonsubstantive additions and conforming changes to the Probate Code and establishes the Estates and Guardianships Code.

Adds new titles and updates and corrects certain cross-references to the revised codes.

Salary of a Duval County Juvenile Board Member—H.B. 2804

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Under current law, the Duval County Juvenile Board is composed of the county judge, the Duval County district judge, and a citizen of Duval County. The commissioners court may pay the juvenile board members an annual salary of not more than \$3,600 for the added duties imposed on the members. This bill:

Increases the maximum compensation authorized to be paid to a Duval County juvenile board member from \$3,600 to \$10,000.

Salary of a Starr County Juvenile Board Member—H.B. 2813

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Under current law, the Starr County Juvenile Board is composed of the county judge, the Starr County county court at law judge, and the Starr County district judges. The commissioners court may pay the juvenile board members an annual salary of not more than \$3,600 for the added duties imposed on the members. This bill:

Increases the maximum compensation authorized to be paid to a Starr County juvenile board member from \$3,600 to \$10,000.

Release of Information in a Child Abuse and Neglect Investigation—H.B. 2876

by Representative Diane Patrick et al.—Senate Sponsor: Senator Carona

Administrative law judges preside over hearings regarding an administrative or disciplinary against a professional who is licensed or certified by the state. When a case involves allegations of child abuse or neglect, the Department of Family and Protective Services (DFPS) is often involved. The Family Code currently authorizes judges to order the release of DFPS records in a civil or criminal court case, but does not grant this authority to administrative law judges. This bill:

Authorizes an administrative law judge, on a motion by one of the parties in a contested case relating to the license or certification of a professional or an educator, to order the disclosure of DFPS records, after notice and hearing.

Requires DFPS to edit the information to protect the identity of any person reporting the abuse or neglect.

Designation of Convenience Signers on Certain Accounts—H.B. 3075

by Representative Deshotel—Senate Sponsor: Senator Hinojosa

Chapter 438A of the Probate Code provides that an account established at a financial institution by one or more parties may provide that the sums on deposit may be paid to convenience signers for the convenience of the parties. This is known as a "convenience account." This bill:

Permits an account established by one or more parties at a financial institution that is not designated as a convenience account to provide that the sums on deposit may be paid to one or more convenience signers.

Provides that on the death of the last surviving party to the account, the convenience signer does not have a right of survivorship in the account, unless designated as a certain payee or a beneficiary.

Sets forth the notice and forms regarding the designation of convenience signers.

Guardianships of Incapacitated Persons—H.B. 3080

by Representative Harnett—Senate Sponsor: Senator Watson

The Texas Probate Code sets out the laws regarding guardians, including compensation and designation, and the management of an incapacitated person's property. This bill:

Makes the provision setting the compensation of a guardian in an amount not exceeding five percent of the ward's gross income permissive rather than mandatory.

Authorizes a court to order quarterly compensation for the guardian or temporary guardian in an amount the court finds reasonable. The court may later reduce or eliminate the guardian's or temporary guardian's compensation under certain circumstances.

Authorizes the compensation of an attorney regarding a management trust.

Sets out the provisions regarding the compensation for the performance of guardianship services and legal services by an attorney who serves as a guardian and who also provides legal services in connection with the guardianship.

Provides for alternatives to a self-proving affidavit regarding a declaration of appointment of guardian for children in the event of the death of a parent or a declaration of guardian in the event of later incapacity or need of a guardian.

Authorizes the guardian of a ward to personally transport the ward or to direct the ward's transport to an inpatient mental health facility.

Requires a court, regarding the creation of a management trust, to appoint an attorney ad litem and, if necessary, authorizes the appointment of a guardian ad litem, to represent the interests of the alleged incapacitated person in the proceeding.

Authorizes the court in such a proceeding to appoint a person or entity that meets certain requirements to serve as trustee of the trust instead of appointing a financial institution to serve in that capacity.

Provides that if the value of the trust's principal is more than \$150,000, the court may appoint a person or entity other than a financial institution only if the court makes certain findings.

Removes the requirement that the trustee of a management trust must apply annually to the court for compensation for services and provides that the compensation is to be paid, reduced, and eliminated in the same manner as compensation of a guardian of an estate.

Authorizes a court, if it determines that it is in the ward's or incapacitated person's best interests, to order the transfer of all property in a management trust to a subaccount of a pooled trust.

Provides for the establishment of pooled trust subaccounts.

Authorizes a person interested in the welfare of any other incapacitated person to apply to a court for the establishment of a subaccount for the benefit of the incapacitated person.

Requires the court to appoint an attorney ad litem for certain persons.

Authorizes the court, if it finds that it is in the best interests of a person who is the subject of an application, to order the establishment of a subaccount of which the person is the beneficiary and the transfer to the subaccount of any of the person's property on hand or accruing to the person.

Sets forth what a subaccount must provide.

Provides that the court ordering the establishment of a subaccount has exclusive jurisdiction in a subsequent proceeding or action relating to both the beneficiary and the subaccount.

Authorizes the manager or trustee of a pooled trust to access and pay certain fees.

Requires the manager or trustee of the pooled trust to file a copy of the annual report of account, if ordered by the court.

Service of Process on Condominium Unit Owners and Associations—H.B. 3128

by Representative Sylvester Turner—Senate Sponsor: Senator Ellis

Under current law, when a city files suit for the authority to demolish a large condominium complex, the city must sue and serve each defendant, who are usually individual property owners. This bill:

Provides that a unit owner of a condominium located wholly or partly in a municipality with a population of more than 1.9 million may be served with process by the municipality for a judicial or administrative proceeding initiated by the municipality and directly related to the owner's property interest in the condominium by serving the unit owner at the unit owner's last known address, according to the records of the appraisal district.

Prohibits a unit owner from offering proof in the judicial or administrative proceeding that proper service by mail of the notice was not received not later than three days after the date the notice was deposited with the United States Postal Service.

Requires a condominium information statement for a condominium located wholly or partly in a municipality with a population of more than 1.9 million to include a statement regarding this Act.

Requires a municipality to exercise due diligence to determine the identity and address of a registered agent to whom the municipality is required to give notice.

Provides that compliance with this Act constitutes due diligence and valid notice.

Writ of Attachment in a Civil Suit for Certain Sexual Assaults—H.B. 3246

by Representative Fred Brown—Senate Sponsor: Senator Watson

In Austin, a man accused of serial sexual abuse against numerous young children divorced his wife and transferred the entirety of his assets to his former spouse. Because of the divorce transfer, the victims and their families may receive no restitution. This bill:

Provides that attachment is available to a plaintiff in a suit for personal injury arising as a result of conduct violating certain penal statutes regarding sexual acts with a child.

Authorizes a court to issue a writ of attachment under this Act in an amount that the court determines to be appropriate for the counseling and medical needs of the plaintiff.

Requires the plaintiff or the plaintiff's agent or attorney seeking a writ of attachment under this Act to file with the court an affidavit that states the general and specific grounds for issuance and the amount of the demand based on the estimated cost of counseling and medical needs of the plaintiff.

Use of Information and Records Acquired During a Fatality Review—H.B. 3303

by Representative Kent et al.—Senate Sponsor: Senator Zaffirini

Texas law makes it a Class A misdemeanor to disclose the business of a fatality review if done for a purpose other than the business of the review. However, a judge may order that the information be disclosed by a participant. There are concerns that such possible disclosure may limit the ability of the review panel to fully discuss the case. This bill:

Provides that the information, documents, and records of a review panel are not subject to subpoena or discovery and may not be introduced into evidence in any civil or criminal proceeding. This confidentiality does not apply to any document or information available from another source.

Failure to Report Barratry and Solicitation of Employment—H.B. 3515 [VETOED]

by Representative Dunnam—Senate Sponsor: Senator Carona

Under Texas law, the solicitation of employment by a lawyer is a third-degree felony. Many citizens are unaware that such solicitation is illegal. This bill:

Makes it a Class C misdemeanor if a lawyer, during the course of representation of a client:

- acquires knowledge that would reasonably cause a lawyer to believe that a person, other than a lawyer subject to the Texas Disciplinary Rules of Professional Conduct, while acting on behalf of a lawyer, engaged in barratry and solicitation of employment; and
- fails to report the knowledge to the State Bar of Texas not later than the 45th business day after the lawyer acquires the knowledge.

Authorizing a County Clerk to Post Notices by Electronic Display—H.B. 3601

by Representative Paxton—Senate Sponsor: Senator Hegar

Currently, the county clerk must post various legal and official notices as physical documents on a bulletin board that is accessible for public viewing. This bill:

Defines "electronic display."

Authorizes a county clerk to post official and legal notices by electronic display.

Requires the electronic display of information to meet the location, time, and accessibility requirements provided by law for the posting of the notice.

Administration of a Trust When a Cotrustee is Suspended or Disqualified—H.B. 3635

by Representative Geren—Senate Sponsor: Senator Wentworth

When a cotrustee has been suspended from a trust, the remaining cotrustee or cotrustees must act to preserve trust assets and transact business as authorized by the trust. This bill:

Provides that a cotrustee cannot participate in the performance of a trustee's function if suspended or disqualified under law.

Authorizes the remaining cotrustee or a majority of the remaining cotrustees to act for the trust when prompt action is necessary to achieve the efficient administration of the trust or to avoid injury to a beneficiary.

Use of Fees in Civil Actions and Proceedings—H.B. 3637*by Representative Hughes—Senate Sponsor: Senator Wentworth*

Due to cuts in federal interest rates, interest on legal trust accounts (IOLTA) funding has decreased. A fee of \$5 for statutory and constitutional county courts and \$2 for justice of the peace courts is assessed on the filing of any civil action or proceeding, including an appeal, to fund civil legal services for the indigent. This bill:

Requires a defendant convicted of a criminal offense in a county court, statutory county court, or district court to pay a \$4 county and district court technology fee as a cost of court.

Increases the filing fee dedicated for the funding of indigent civil legal services to \$10 for filings in statutory and constitutional county courts and to \$6 for filings in justice of the peace courts. Provides that the fee is to be assessed upon any filing of a civil action or proceeding, including an appeal, counterclaim, cross-action, intervention, interpleader, or third-party action.

Authorizes a county court or county court at law in which an appeal of the suit is filed, on a written application of any party to an eviction suit, to appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals to attend to the cause of certain parties.

Requires the clerk of a county court, statutory county court, or district court to collect additional fees.

Application for and Issuance of a Marriage License—H.B. 3666*by Representative Kolkhorst—Senate Sponsor: Senator Wentworth*

The Texas County and District Clerks Association has made recommendations for revising the laws regarding the application for and issuance of a marriage license. This bill:

Sets forth the documentation acceptable for establishing proof of a person's identity and age.

Sets forth the documents establishing consent by a parent or a person who has legal authority to consent to the marriage for an underage applicant.

Requires the executive commissioner of the Health and Human Services Commission (commissioner) to adopt rules detailing acceptable proof of the legal authority to consent to the marriage of an underage applicant.

Requires a county clerk to issue a certified copy of a recorded marriage license on request; or a duplicate license if a marriage license issued by a county clerk is lost, destroyed, or rendered useless.

Requires both parties to a marriage license, if one or both parties discover an error on the recorded marriage license, to execute a notarized affidavit stating the error. The county clerk must file and record the affidavit as an amendment to the marriage license.

Requires the commissioner to prescribe the form of the affidavit.

Authorizes a county clerk, on the proper execution of the declaration of informal marriage, to prepare and record a certificate of informal marriage.

Provides that a recorded certificate of informal marriage is prima facie evidence of the marriage of the parties.

Requires the commissioner, soon as practicable after the effective date of this Act, to adopt the rules required by this Act.

Transfer of Homestead Property into Certain Trusts—H.B. 3767

by Representative Paxton—Senate Sponsor: Senator Wentworth

Under current law, most creditors cannot obtain a lien against a homestead. However, when a person transfers the residence homestead into a living trust, that homestead protection is lost. This bill:

Defines "qualifying trust."

Provides that property that a settlor or beneficiary occupies and uses as a homestead and in which the settlor or beneficiary owns a beneficial interest through a qualifying trust is considered the homestead of the settlor or beneficiary.

Requires a married person who transfers property into a qualifying trust to comply with the legal requirements relating to the joinder of the person's spouse.

Authorizes a trustee to sell, convey, or encumber property transferred without the joinder of either spouse unless expressly prohibited by the instrument or court order creating the trust.

Provides that this Act does not affect the rights of a surviving spouse or surviving children under Texas law.

Continuation of Title Insurance Coverage of Transferred Property—H.B. 3768

by Representative Paxton—Senate Sponsor: Senator Wentworth

When a person, through a warranty deed, transfers a residence homestead into a qualified living trust, the individual may lose title insurance coverage. This bill:

Requires the commissioner of insurance to adopt terms providing for continuation of coverage by an owner's title insurance policy on residential real property that is issued to an individual, subject to rights and defenses against the original named insured for:

- a person who inherits the original named insured's title on the original named insured's death;
- the original named insured's spouse who receives title in a dissolution of marriage with the original named insured;
- the trustee or successor of a trust established by the original named insured to whom the original named insured transfers title after the date of the policy; or
- the beneficiaries of a certain trust on the death of the original named insured.

Foreclosure of Liens on Property of Military Personnel or Dependents—H.B. 3857

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

Active duty military servicemembers may find themselves facing foreclosure because the conditions of their service make it difficult for them to comply with their financial obligations in a timely manner. The federal Servicemembers Civil Relief Act (SCRA) provides certain financial protections. This bill:

Defines "active duty military service," "dwelling," "military servicemember," and "person."

Provides that the Act applies only to an obligation:

- that is secured by a mortgage or other contract lien on real property or personal property that is a dwelling owned by a military servicemember;
- that originates before the date on which the servicemember's active duty military service commences; and
- for which the servicemember is still obligated.

Provides that in an action to foreclose a lien or otherwise enforce an obligation covered under this Act that is filed during a military servicemember's period of active duty military service or within nine months after the date on which that service period concludes, a court may, or on the application by the servicemember, must:

- stay the proceedings for a period of time as justice and equity require; or
- adjust the obligations of the contract secured by the lien to preserve the interests of all parties.

Prohibits the sale, foreclosure, or seizure of property under a mortgage or other contract lien during the military servicemember's period of active duty military service or during the nine months after the date on which that service period concludes, unless the sale, foreclosure, or seizure is conducted under a court order issued before the sale, foreclosure, or seizure; or under an agreement that complies with the Act.

Provides that such agreement may waive the servicemember's rights, provided the waiver is in writing and meets certain specified requirements.

Makes it a Class A misdemeanor for a person to knowingly make or cause to be made a sale, foreclosure, or seizure of property that is prohibited by this Act.

Grants a dependent of a military servicemember the protections of Act if the dependent's ability to comply with an obligation that is secured by a mortgage or other contract lien on real property or personal property that is a dwelling is materially affected by the servicemember's military service.

Authorizes a court that takes any action under this Act regarding the enforcement of an obligation to take similar action with respect to a surety, guarantor, or other person who is or may be primarily or secondarily subject to the obligation.

Provides that this Act does not prevent a waiver in writing by a surety, guarantor, or other person, whether primarily or secondarily liable on an obligation, of the protections provided under this Act.

Sets forth conditions under which such a waiver is valid.

Donations to the Bexar County Juvenile Board—H.B. 4700

by Representatives Farias and Leibowitz —Senate Sponsor: Senator Wentworth

Local juvenile boards are created by statute to establish juvenile probation departments and to provide local juvenile probation services. Agencies can only accept donations if expressly permitted by statute. This bill:

Authorizes the Bexar County Juvenile Board to apply for, accept, and use a gift, grant, or donation from a governmental entity, corporation, individual, or other source for the benefit of the juvenile justice system.

Fee Imposed for a Family Violence Offense—S.B. 82

by Senators Nelson and Uresti—House Sponsor: Representative Moody

Under current Texas law, a judge may order an offender convicted of family violence to pay up to \$100 to a family violence shelter as a condition of community supervision. This bill:

Makes this fee mandatory.

Requires that the fee be paid to a family violence center.

Updates statutes setting out other fees, including fees for copies of driving records, pretrial intervention programs, and teen court programs.

Right to Vacate Lease Following Certain Sex Offenses or Domestic Violence—S.B. 83

by Senators Nelson and Uresti—House Sponsor: Representative Guillen

Current law authorizes victims of domestic violence to terminate their residential lease without liability to the landlord when the perpetrator was an occupant or cotenant of the residence. This bill:

Authorizes a victim of domestic violence to terminate a lease if the abuser is not an occupant or cotenant.

Expands the documentation that may be provided to the landlord by the tenant to include a temporary ex parte order issued under the Family Code.

Provides that if the family violence was not committed by a cotenant or occupant of the dwelling, the tenant must provide the landlord with certain notice.

Grants a tenant the right to terminate a lease and to vacate the dwelling if the tenant is a victim of sexual assault or the parent or guardian of a victim of sexual assault under certain provisions of the Penal Code that occurred during the preceding six-month period on the premises.

Requires the tenant to provide the landlord or the landlord's agent with certain documentation regarding the assault or abuse.

Authorizes the tenant to terminate the lease and vacate the dwelling without liability after all of the following have occurred:

- the tenant provides a copy of the required documentation;
- the tenant provides written notice of termination of the lease to the landlord on or before the 30th day before the date the lease terminates; and
- the 30th day after the date the tenant provided notice expires and the tenant vacates the dwelling.

Makes a landlord who violates this Act liable to the tenant for actual damages and imposes on the landlord a civil penalty equal to the amount of one month's rent plus \$500 and attorney's fees.

Provides that the Act does not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the lease was terminated by the tenant under the Act.

Provides that a tenant who terminates a lease under this Act is released from all liability for any delinquent, unpaid rent owed to the landlord by the tenant on the effective date of the lease termination if the lease does not contain

language informing tenants of their rights to terminate the lease early in certain situations involving sexual assault or sexual abuse.

Appointment of a Successor Guardian for Incapacitated Wards—S.B. 271

by Senator Harris — House Sponsor: Representative Rose

A person is held to be incapacitated if a mental or physical condition prevents that person from taking care of his or her physical needs and financial affairs. A probate court may designate a guardian to manage an incapacitated person's financial affairs. Generally, a guardian is a family member, friend, or volunteer from a county guardianship program. However, not all counties have such guardianship programs, and if a person does not have any family or friends to serve as a guardian, the court must serve as the guardian. If the person lives outside of the county or at a distance from the court, this makes difficult for the court to fulfill its duty. This bill:

Provides for informal caregiver services.

Defines "area agency on aging" and "local entity."

Requires the Department of Aging and Disability Services (DADS) to:

- coordinate with area agencies on aging and other local entities to coordinate public awareness outreach efforts regarding the role of informal caregivers in long-term care situations;
- perform certain specified duties to assist a local entity with outreach efforts;
- create a form to be included in the functional eligibility determination process for long-term care benefits for older persons under the Medicaid program and, to the extent feasible, may include a form in systems for other long-term care support services. The form is to be used identify informal caregivers for the purpose of enabling DADS to refer the caregivers to available support services; and
- coordinate with area agencies on aging and, to the extent feasible, may coordinate with other local entities to develop and implement a protocol to evaluate the needs of certain informal caregivers.

Sets forth what this protocol must contain.

Requires area agencies on aging and, to the extent feasible, other local entities, to use the protocol and assessment tool and report the data gathered to DADS.

Requires DADS to analyze the data and to submit a report not later than December 1 of each even-numbered year to the governor and the Legislative Budget Board summarizing the analysis. DADS must submit the initial report not later than December 1, 2012.

Sets forth how DADS must use the data analyzed, including evaluating the needs of assessed informal caregivers and improving existing programs.

Authorizes a court to appoint DADS as a successor guardian of a ward who has been adjudicated as totally incapacitated if:

- there is no less restrictive alternative to continuation of the guardianship;
- there is no family member or other suitable person, including a guardianship program, willing and able to serve as the ward's successor guardian;
- the ward is located more than 100 miles from the court that created the guardianship;
- the ward has private assets or access to government benefits to pay for ward's needs; and

- DADS is served with citation and a hearing is held regarding DADS' appointment as proposed successor guardian.

Provides that the number of appointments to DADS under this Act is limited to 55 annually. Such appointments must be distributed as equally as possible among the health and human services regions of the state.

Authorizes DADS to establish a different distribution scheme to promote the efficient use and administration of resources.

Sets forth how the citation must be issued and served.

Conservatorship, Possession, or Access to a Child Based on Military Deployment—S.B. 279

by Senator Nelson et al.—House Sponsor: Representative Aycock

Under current law, a court may modify an existing order providing for the conservatorship of a child if the appointed conservator voluntarily relinquishes primary care and possession of the child to another person for at least six months. There is no exception for military parents who are deployed on active duty that would prevent a court modifying the order due to the conservator's absence. This bill:

Defines "designated person," "military deployment," "military mobilization," and "temporary military duty."

Provides that if conservator ordered to military service must move a substantial distance that materially affects the conservator's ability to exercise his or her rights and duties in relation to a child, either conservator may file for a temporary order regarding possession of or access to a child or child support.

Authorizes a court to render a temporary order regarding possession of or access to the child or child support. A temporary order may grant rights and duties to a designated person regarding the child, but cannot require the designated person to pay child support.

Provides that following a conservator's return after conclusion of the military service, the temporary orders terminate and the affected parties are governed by any preexisting orders.

Authorizes a court, if the conservator with the exclusive right to designate the primary residence of the child is ordered to military service, to render a temporary order appointing a designated person to exercise such right and sets out, in order of preference, who is eligible to be such designated person.

Grants the designated person the rights and duties of a nonparent appointed as sole managing conservator. The court may limit or expand these rights in the child's best interest.

Authorizes the court, when appointing the conservator without the exclusive right to designate the primary residence of the child, to award visitation with the child to a designated person chosen by the conservator with the exclusive right to designate the primary residence of the child. Sets out the periods of visitation and what the temporary visitation order must provide.

Authorizes a court, if the conservator without the exclusive right to designate the primary residence of the child is ordered to military service, to award visitation with the child to a designated person chosen by that conservator, if the visitation is in the best interest of the child. Sets out what the temporary visitation order must provide.

Provides that a temporary order may justify modifying the child support obligations of a party.

Provides for an expedited hearing if the conservator's military duties materially affect the conservator's ability to appear in person and allows testimony and evidence by electronic means.

Provides that temporary orders may be enforced by or against the designated person to the same extent that an order would be enforceable against the conservator who has been ordered to military service

Authorizes the conservator without the exclusive right to designate the primary residence of the child who is a member of the armed services, within 90 days after conclusion of the military service, to petition the court to award the conservator additional compensatory periods of possession of or access to the child. The court may award such additional periods if the court determines that, because of the conservator's military service, access to the child was not reasonably possible and that such additional periods are in the child's best interest.

Jurisdiction, Venue, and Appeals in Certain Matters—S.B. 408

by Senator Carona—House Sponsor: Representative Hughes

Under current law, small claims courts and justice courts have jurisdiction in cases in which the amount in dispute does not exceed \$10,000. A judgment rendered by a small claims court or justice court may be appealed to a county court or a county court at law. However, the judgment rendered by the county court or the county court in at law regarding an appeal from a small claims court is final and may not be appealed, but the judgment rendered by the county court or the county court in at law regarding an appeal from a justice court may be appealed to the courts of appeals.

There are also other issues regarding jurisdiction, venue, and appeals in certain matters that need to be addressed or clarified, including the jurisdiction, authority, power, and discretion of probate judges. This bill:

Increases the amount of judgment or amount in controversy in a civil case that a person may appeal from the district or county court to the appellate courts from an amount exceeding \$100 to an amount exceeding \$250.

Provides that if a nonresident manufacturer fails to timely answer or otherwise make an appearance after service through the secretary of state, it is conclusively presumed that the manufacturer is not subject to the jurisdiction of the court unless the seller is able to secure personal jurisdiction over the manufacturer.

Authorizes a county court or county court at law, on a written application of any party to an appeal in a eviction suit, to appoint a qualified attorney to provide pro bono services to the a party who was in possession of the residence at the time the eviction suit was filed in the justice court and has perfected the appeal on a pauper's affidavit:

- Requires the appointed counsel to represent the individual in the proceedings;
- Authorizes the court to terminate such representation for cause;
- Provides that the appointed counsel may not receive attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations;
- Provides that the county is not responsible for payment of attorney's fees to appointed counsel; and
- Requires the court to provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel.

Provides that trial on appeal from a small claims court to the county court or county court at law is de novo.

Authorizes a person to appeal the final judgment of the county court or county court at law in the appeal of a small claims court decision to the court of appeals.

Provides that as regards services provided by contractor to persons with limited English proficiency, "public assistance benefits" include benefits provided under a public assistance program under Chapter 31 (Financial Assistance and Service Programs), Human Resources Code.

Provides that the owner divested of ownership of an animal on provisions regarding cruel treatment of animals may appeal the order and sets out procedures for the perfection of the appeal, notice, and other procedures.

Provides that the decision of the county court or county court at law regarding such appeal is final and may not be further appealed.

Defines "probate proceeding."

Requires that all probate proceedings be filed and heard in a court exercising original probate jurisdiction.

Provides that the court exercising original probate jurisdiction also has jurisdiction of all matters related to the probate proceeding and sets forth matters related to a probate proceeding.

Authorizes a probate court to exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy.

Provides that a final order issued by a probate court is appealable to the court of appeals.

Provides that in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, the county court has original jurisdiction of probate proceedings. In such county in which there is a county court at law exercising original probate jurisdiction, the county court at law and the county court have concurrent original jurisdiction of probate proceedings, unless otherwise provided by law.

Provides that in a county in which there is a statutory probate court, the statutory probate court has original jurisdiction in all contested and uncontested probate proceedings.

Authorizes the judge or a party, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter is a probate proceeding is contested, to request the assignment of a statutory probate court judge to hear the contested matter or to transfer the contested matter to the district court. Sets forth procedures and other provisions regarding such assignment or transfer.

Authorizes a judge of a county court or a party, in a county in which there is no statutory probate court but in which there is a county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, to transfer the contested matter or the entire proceeding to the county court at law.

Provides that a statutory probate court has jurisdiction in certain specified actions concerning a trustee, trust, agent, or power of attorney.

Provides that the statute stating that venue in a proceeding brought by the attorney general alleging breach of a fiduciary duty governs in the event of any conflict with the Texas Probate Code.

Sets forth what constitutes matters related to a probate proceeding in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction; no statutory probate court, but there is a county court at law exercising original probate jurisdiction; or a statutory probate court.

Provides that a statutory probate court has concurrent jurisdiction with the district court in certain specified actions.

Statute of Limitations for Misdemeanors—S.B. 410*by Senator Carona—House Sponsor: Representative Miklos*

Current law states that an indictment or information for any misdemeanor must be presented within two years from the date of the commission of the offense. Indictments and information serve as charging instruments in Class A and Class B misdemeanor cases. The charging instrument in Class C misdemeanor cases, however, is the complaint. The statute does not create a statute of limitations for an action initiated by a complaint. This bill:

Requires an indictment or information for any Class A or Class B misdemeanor, or a complaint or information for any Class C misdemeanor, to be presented within two years from the date of the commission of the offense.

Use of Certain Criminal Court Costs for Programs Enhancing Public Safety—S.B. 446*by Senator Wentworth—House Sponsor: Representative Corte*

Under current law, a municipality with a population of less than 850,000 must use money collected from certain municipal court costs for a school crossing guard program. If the municipality does not operate a school crossing guard program or if the money received exceeds the amount necessary to fund a school crossing guard program, the municipality must either deposit the additional funds in an interest bearing account or use the funds for programs designed to enhance child safety, health, or nutrition. This bill:

Authorizes such municipalities to expend the additional money for programs designed to enhance public safety and security.

Information Regarding Transfer of a Child from Juvenile to Criminal Court—S.B. 518*by Senator Harris—House Sponsor: Representative Madden*

Under current law, when a prosecutor seeks to certify a juvenile as an adult offender and transfer the case from the juvenile justice system to the adult justice system, the defense attorney has one day to review the juvenile's file. This bill:

Requires a court, least five days prior to the transfer hearing, to provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in making the transfer decision.

Relocation of Charitable Trusts—S.B. 666*by Senator Shapleigh—House Sponsor: Representative Hartnett*

Trusts or charitable foundations set up by donors who have no heirs or other family are often entrusted to local lawyers or local banks who will keep the money invested in the community. However, when the local banks are sold to multinational financial institutions, the foundations may be relocated to outside of the community and this state. This bill:

Defines "charitable entity," "charitable trust," and "trust administration."

Prohibits a trustee of a charitable trust, except as provided by this Act or specifically authorized by the terms of a trust, from relocating the trust administration from Texas to outside the state.

Requires a trustee who decides to change the location from in Texas to outside the state to:

- consult the settler, if the settlor is living and not incapacitated, and submit the selection to the attorney general; or
- if the settlor is not living or is incapacitated, submit the proposal of the new location to the attorney general.

Authorizes the trustee to file an action in the district court or statutory probate court in which the trust was created seeking a court order permitting the trustee relocate the trust administration to outside this state.

Provides that the trust administration may not be relocated to a location outside this state unless the charitable purposes of the trust would not be impaired by the move and the district court or statutory probate court authorizes the relocation.

Authorizes the attorney general to bring an action to enforce the provisions of this Act.

Authorizes the district court or statutory probate court in the county in which the trust administration was originally located, if a trustee of a charitable trust fails to comply with this Act, to remove the trustee and appoint a new trustee. Costs of a proceeding may be assessed against the removed trustee.

Provides that this section does not affect a trustee's authority to sell real estate owned by a charitable trust.

Matters Referred to a Statutory Probate Court Judge or Associate Judge—S.B. 683

by Senator Wentworth—House Sponsor: Representative Hartnett

S.B. 406, 80th Legislature, Regular Session, 2007, amended the Government Code to provide that if a motion is made to recuse a statutory probate judge, the presiding judge of statutory probate courts must request that the presiding judge of the administrative judicial district assign a judge to hear a recusal motion. However, there is some conflict regarding who has the authority under current law to reassign the case to another court. There are also issues regarding the powers and duties of associate judges. This bill:

Requires the presiding judge of the administrative judicial district, when there is an order of recusal or disqualification of a statutory probate court judge, to assign a statutory probate court judge or a former or retired judge of a statutory probate court to hear the case not later than the 15th day after the date an order of recusal or disqualification of a statutory probate court judge is issued.

Authorizes the presiding judge of the statutory probate courts to assign a judge or a former or retired judge of a statutory probate court if the presiding judge of the administrative judicial district fails to timely assign a judge.

Requires a statutory probate judge who recuses himself or herself and serves in a county with only one statutory probate court to enter an order of recusal and request that the presiding judge of the administrative judicial district assign a judge under this Act. If the judge serves in a county with more than one statutory probate court, the judge must request that the clerk who serves the statutory probate courts randomly reassign the case to a judge of one of the other statutory probate courts.

Requires a judge who disqualifies himself or herself to enter an order of disqualification and request that the presiding judge of the administrative judicial district assign a judge.

Provides that the statutory provisions concerning a judge who does not recuse himself or herself also apply to a judge who does not disqualify himself or herself.

Authorizes a judge who hears a motion for recusal or disqualification to also hear any amended or supplemented motion for recusal or disqualification filed in the case.

Sets forth the procedures if a motion for recusal or disqualification is granted.

Authorizes the presiding judge of an administrative judicial district to delegate the judge's authority to make orders of interim or ancillary relief in certain circumstances to the presiding judge of the statutory probate courts.

Sets forth the compensation of a judge assigned to hear a motion for recusal or disqualification.

Requires the a clerk of a statutory probate court:

- to immediately notify the presiding judge of the administrative judicial district and request that the presiding judge assign a judge if the clerk is unable to reassign a case as requested under this Act because the other statutory probate court judges in the county have been recused, disqualified, or are otherwise unavailable to hear the case; and
- to immediately notify and provide to the presiding judge of the statutory probate courts a copy of an order of recusal or disqualification regarding a statutory probate court judge.

Provides that an associate judge's appointment continues if the appointing judge vacates the judge's office, and sets forth who may terminate such associate judge. Such an associate judge may perform administrative functions with respect to that court, but cannot perform any judicial function until a successor judge is appointed or elected.

Expands the powers of an associate judge to enter certain specified orders.

Authorizes an associate judge to, in the interest of justice, refer a case back to the referring court.

Sets forth when a judge of the referring court must sign an order issued by an associate judge.

Requires a court reporter to be provided when the associate judge presides over a jury trial. A reporter may be provided for a hearing held by an associate judge, unless required by other law.

Provides that if the record is taken by a court reporter, on a request for a de novo hearing, the referring court may consider testimony or other evidence in the record.

Provides that associate judge's written report to the referring court may be in the form of a proposed order and requires that the associate judge provide the parties participating in the hearing with a copy of any proposed order.

Permits notice to the parties by an associate judge to be given by facsimile transmission.

Grants the parties to a hearing before an associate judge a right to a de novo trial before the referring court and sets forth the procedure. A party's failure to request a de novo hearing or a party's waiver of that right does not deprive the party of the right to appeal.

Expenses Incurred by Court Reporters for the 506th Judicial District—S.B. 812

by Senator Hegar—House Sponsor: Representative Zerwas

Waller and Grimes counties make up the 506th Judicial District. These counties are located in a rural part of the state and court reporters must travel between the two counties. The current reimbursement rate under the governing provision of the Government Code is insufficient. This bill:

Requires that the official court reporters for the 506th Judicial District receive reimbursement for actual and necessary expenses and that each county in the district pay a portion of the reimbursement in proportion to the county's population.

Child Support Enforcement—S.B. 865

by Senator Harris—House Sponsor: Representative Jim Jackson

This an omnibus bill regarding child support. It amends multiple sections of the Family Code to clarify, conform, and remove outdated language. This bill:

Provides that certain provisions regarding court reporters in child support review process apply in the event of any conflict with other provisions of the Family Code.

Authorizes a court in suits affecting the parent-child relationship to exercise personal jurisdiction over a person who registered with the paternity registry maintained by the bureau of vital statistics or signed an acknowledgment of paternity of a child born in this state.

Requires a clerk of the court, if an administering entity of a domestic relations office adopts an:

- initial operations fee, to collect the operations fee at the time the original suit, motion for modification, or motion for enforcement, as applicable, is filed; and
- initial child support service fee, to collect the fee at the time the original suit is filed and send the fee to the domestic relations office.

Provides that such fees are not considered filing fees.

Provides that resources for the calculation of a child support do not include supplemental security income or federal public assistance programs.

Adjusts the formula for calculating the guidelines for child support applicable when the obligor's monthly net resources are not greater than \$7,500.

Requires a court to make certain findings regarding a child support obligation, and, if the findings required as a result of the request by a party's request, to make and enter the findings not later than the 15th day after the date of the request.

Requires the parties to a proceeding regarding child support to disclose, if private health insurance is not in effect for the child, whether either parent has access to private health insurance at reasonable cost to the obligor. If there is no health insurance coverage in effect for the child or if the insurance in effect is not available at a reasonable cost to the obligor, the court must, except for good cause shown, order health care coverage for the child as provided under the Family Code.

Defines "reasonable cost" if the obligor is responsible under a medical support order for the cost of health insurance coverage for more than one child.

Requires a court to consider the accessibility of health insurance coverage available to the parties and to give priority to health insurance coverage available through the employment of one of the parties if the coverage is available at a reasonable cost to the obligor. Defines "accessibility" and "reasonable."

Establishes a health care program for certain children in Title IV-D cases:

- Declares that the principal objective of the program is to provide basic health care services to eligible children in Title IV-D cases at reasonable cost to the parents obligated by court order to provide medical support for the children.
- Defines "health benefit plan issuer," "health care provider," "program," "reasonable cost," and "third-party administrator."
- Requires the Title IV-D agency, in consultation with the Texas Department of Insurance, the Health and Human Services Commission, and representatives of the insurance industry, to develop and implement a statewide program to address the health care needs of children in Title IV-D cases for whom health insurance is not available to either parent at a reasonable cost.
- Authorizes the establishment of an advisory committee regarding the implementation and operation of the program.
- Authorizes the Title IV-D agency to use available private resources, including gifts and grants, in administering the program.
- Requires the Title IV-D agency to adopt rules as necessary to implement the program.
- Prohibits a health benefit plan issuer that participates in the program from denying health care coverage to eligible children because of preexisting conditions or chronic illnesses.
- Provides that a child who is determined to be eligible for coverage under the program continues to be eligible until the termination of the parent's duty to pay child support. Provides that enrollment of a child in the program does not preclude the subsequent enrollment of the child in another health care plan that becomes available to the child's parent at a reasonable cost.
- Requires the Title IV-D agency to:

contract with an independent third-party administrator for administrative services;
solicit applications for participation in the program from health benefit plan issuers. Such issuers must hold a certificate of authority issued by the Texas Department of Insurance;
notify the courts when the program has been implemented; and
order that a child be enrolled in the program unless other health insurance is available for the child at a reasonable cost.

- Authorizes the Title IV-D agency to enforce payment of premium costs for the enrollment of a child in the program against the obligor.
- Provides that the program is not subject to any other law that requires coverage or the offer of coverage of a health care service or benefit; and certain information obtained by the program, or by a third-party administrator providing program services, is confidential.

Authorizes the Title IV-D agency, in each Title IV-D case in which a medical support order requires that a child be enrolled in a certain health care program, to administratively adjust the order as necessary on an annual basis to reflect changes in the amount of premium costs associated with the child's enrollment. The Title IV-D agency must provide notice of the administrative adjustment to the obligor and the clerk of the court that rendered the order.

Requires a court, as additional child support, to allocate between the parties, according to their circumstances, the reasonable and necessary health care expenses, including vision and dental expenses, of the child that are not reimbursed by health insurance or are not otherwise covered by the amount of cash medical support ordered, and amounts paid by either party as deductibles or copayments in obtaining health care services for the child covered under a health insurance policy.

Requires an employer who has received an order or notice to provide by a certain date a statement that the child been enrolled in the employer's health insurance plan or is already enrolled in another health insurance plan in accordance with a previous child support or medical support order to which the employee is subject.

Provides that a court retains jurisdiction to confirm the total amount of child support arrearages and render a cumulative money judgment for past-due child support if a motion for enforcement requesting a cumulative money judgment is made by a certain date.

Provides that if a child for whom the obligor owes child support receives a lump-sum payment as a result of the obligor's disability and that payment is made to the obligee as the representative payee of the child, the obligor is entitled to a credit equal to the amount of the lump-sum payment.

Authorizes the court to award the petitioner costs of court and reasonable attorney's fees in certain child support proceedings.

Changes the priority of the application of a collected child support payment regarding interest on the principal amounts.

Requires an employer with 250 or more employees to remit wages withheld for child support by electronic funds transfer or electronic data interchange, but permits an employer with fewer than 250 employees to do so.

Provides that Chapter 159 (Uniform Interstate Family Support Act), Family Code, governs every determination of parentage in this state, except as provided by Chapter 233 (Child Support Review Process to Establish or Enforce Support Obligations).

Provides that proceedings to adjudicate parentage are governed by the Texas Rules of Civil Procedure, except as provided by Chapter 233.

Authorizes a referring court, on a request for a de novo hearing from an order by an associate judge, to consider testimony or other evidence in the record, even if the record was not taken by a court reporter.

Authorizes an administering entity to allow a domestic relations office to assess and collect an initial operations fee not to exceed \$15 to be paid to the domestic relations office on each filing of an original suit, motion for modification, or motion for enforcement, as well as, in a county that has a child support enforcement cooperative agreement with the Title IV-D agency, an initial child support service on the filing of an original suit.

Requires the Title IV-D agency, by rule and in consultation with the Texas Department of Insurance and representatives of the insurance industry, to operate a program to improve the enforcement of child support. This program must require insurance companies to cooperate with the Title IV-D agency in identifying obligors who owe child support arrearages to intercept certain liability insurance settlements or awards for satisfaction of the arrearage amounts.

Requires a Title IV-D agency to pay certain costs and fees, including a fee for serving a capias or under a local rule for the electronic filing of documents with a clerk.

Requires the Title IV-D agency to issue a debit card to each obligee for whom a debit card account is established; and to provide the obligee with instructions for activating and using the debit card.

Provides that an obligee may decline in writing to receive child support payments by electronic funds transfer and request that payments be provided by paper warrants if receiving payments by electronic funds transfer would impose a substantial hardship; and a child support payment disbursed by the state disbursement unit by electronic funds transfer is solely the property of the obligee.

Provides that Section 34.001 (No Execution on Dormant Judgment), Civil Practice and Remedies Code, does not apply to a judgment for child support under the Family Code.

Requires the Texas Department of Criminal Justice, upon receipt of a valid court order requiring an inmate to pay child support, to withdraw the appropriate amount from the inmate's account.

Provides that Section 12.0011 (Instruments Concerning Property: Original Signature Required For Certain Instruments), Property Code, does not apply to a child support lien notice issued by the Title IV-D agency under the Family Code.

Provides that Section 72.101 (Personal Property Presumed Abandoned), Property Code, does not apply to certain money collected as child support.

Expands the definition of "account" under Chapter 73 (Property Held by Financial Institutions), Property Code, to include a child support debit card account established under the Family Code.

Authorizes information obtained verifying a driver's financial responsibility under the Transportation Code to be provided to the attorney general for the purpose of enforcing child support obligations.

Rights and Liabilities in a Suit for Dissolution of Marriage—S.B. 866

by Senator Harris—House Sponsor: Representative Frost

Determining the property interest of a spouse in an employer-provided stock option or employer-provided restricted stock plan is extremely difficult. Also, there are issues regarding claims for reimbursement by a spouse for certain expenditures that benefitted the marital estate. This bill:

Sets forth the formula for determining the separate interest of a spouse who is a participant in an employer-provided stock option plan or an employer-provided restricted stock plan.

Expands what is included in a claim for reimbursement.

Requires a court to resolve a claim for reimbursement by using equitable principles.

Provides that the benefits for the use and enjoyment of property may be offset against a claim for reimbursement for expenditures to benefit a marital estate, except that the separate estate of a spouse may not claim an offset for use and enjoyment of a primary or secondary residence owned wholly or partly by the separate estate against contributions made by the community estate to the separate estate.

Requires the reimbursement for funds expended by a marital estate for improvements to another marital estate to be measured by the enhancement in value to the benefited marital estate.

Places the burden of proof on the party seeking an offset to a claim for reimbursement.

Makes it permissive, rather than mandatory, for a court to impose an equitable lien on the property of a benefited marital estate to secure a claim for reimbursement against that property by a contributing marital estate in a dissolution of marriage; or on application for a claim for reimbursement after the death of a spouse brought by the surviving spouse or any other person interested in the estate.

Provides that a premarital or marital property agreement, whether executed before, on, or after September 1, 2009, is effective to waive, release, assign, or partition a claim for economic contribution, reimbursement, or both, to the same extent the agreement would have been effective to waive, release, assign, or partition a claim for economic contribution, reimbursement, or both under the law as it existed immediately before September 1, 2009, unless the agreement provides otherwise.

Strikes provisions regarding the disposition of a claim for economic contribution.

Authorizes a court to award reasonable attorney's fees incurred by a party to a divorce or annulment against the other party to the divorce or annulment.

Repeals certain provisions regarding the marital property interest in a defined benefit plan or an option or restricted stock plan.

Definition of Charitable Trust for the Purposes of Court Jurisdiction—S.B. 917

by Senator Harris—House Sponsor: Representative Leibowitz

Under current law, "charitable trust" is defined in the Property Code. However, the Texas Probate Code provides that a statutory probate court has concurrent jurisdiction with a district court in actions involving a charitable trust. This bill:

Provides that, regarding the concurrent jurisdiction of a statutory probate court and the district court, "charitable trust" includes a charitable trust as defined by the Property Code.

Participation of the Attorney General in Proceedings Involving Charitable Trusts—S.B. 918

by Senator Harris—House Sponsor: Representative Leibowitz

Current law authorizes the Texas attorney general to bring an action alleging breach of a fiduciary duty by a fiduciary or managerial agent of a charitable trust. However, a charitable trust may be overseen by a corporation or other entity. Also, current law does not expressly allow the attorney general to recover actual costs and attorneys fees. This bill:

Sets forth venue in a proceeding brought by the attorney general alleging breach of a fiduciary duty by a charitable entity.

Provides that the attorney general, if successful in the proceeding, is entitled to recover actual costs, as well as reasonable attorney's fees, from the charitable entity or fiduciary or managerial agent of the charitable trust.

Authorizes a court in such a proceeding to award the attorney general court costs and reasonable and necessary attorney's fees as may seem equitable and just.

Appointment or Removal of Guardians of Incapacitated Persons—S.B. 1053

by Senators Uresti and Zaffirini— House Sponsor: Representative Naishtat

Under current law, certain individuals who provide guardianship services for incapacitated persons are required to be certified by the Guardianship Certification Board (GCB). However, there are no provisions authorizing GCB to enforce the certification requirement. Also, the Probate Code, which lists reasons a person is not qualified to be appointed guardian, does not include lack of certification. This bill:

Provides that a person may not be appointed guardian if the person lacks certification.

Authorizes a court, on the complaint of GCB, to remove a guardian because of the guardian's failure to maintain certification.

Reporting and Application Requirements for Public and Private Guardians—S.B. 1055*by Senator Uresti—House Sponsor: Representative Naishtat*

Under current law, there are certain reporting requirements for private professional guardians, public guardianship programs, and the Department of Aging and Disability Services (DADS). These reports are submitted to the Guardianship Certification Board (GCB) and county clerks. Currently, the reporting information required and annual due dates vary for these reports. This bill:

Makes January 31 the standard submission date for certain reports and submissions to GCB.

Requires each guardianship program and each private professional guardian to annually provide to GCB a report for the preceding year and sets forth what the reports must contain.

Requires a private professional guardian, in the annual application for a certificate of registration, to include the certification number or provisional certification number issued by GCB.

Requires each guardianship program operating in a county to submit to the county clerk a copy of the report submitted to GCB.

Authorizing the Disclosure of Certain Criminal History Record Information—S.B. 1056*by Senator Uresti—House Sponsor: Representative Naishtat*

Current law authorizes the Guardianship Certification Board (GCB) and the county clerk to obtain criminal history record information connection with the appointment of a guardian. However, if there is an order of nondisclosure regarding the applicant's criminal record, only agencies listed by statute are authorized to receive such information. GCB and county clerks are not included in the statutory list. Also, Texas law regarding the juvenile criminal history records system protects some records of serious offenses committed by juveniles, but permits disclosure of less serious infractions. This bill:

Amends the statutory list of noncriminal justice agencies or entities authorized to receive criminal history record information that is the subject of a nondisclosure order to include GCB and a county clerk's office in relation to a proceeding for the appointment of a guardian

Requires a convicting court, in a case in which a child is convicted for a misdemeanor offense punishable by fine only that does not constitute conduct indicating a need for supervision under the Family Code, to immediately issue an order prohibiting criminal justice agencies from disclosing the criminal history record information related to the offense. A criminal justice agency may disclose such information only to other criminal justice agencies for criminal justice purposes, to an agency or entity listed in statute, or to the person who is the subject of the order.

Authorizes a criminal justice agency to disclose criminal history record information that is the subject such a nondisclosure order to certain specified agencies or entities, including the Texas Youth Commission and Texas Juvenile Probation Commission.

Criminal History Record Information Regarding Persons Certified as Guardians—S.B. 1057*by Senators Uresti and Zaffirini—House Sponsor: Representative Naishtat*

County clerks and the Guardianship Certification Board (GCB) are both authorized to obtain the criminal history record information regarding persons serving as guardians. This bill:

Provides that the clerk is not required to obtain criminal history record information for a person who holds a certificate issued by GBC if GBC conducted a criminal history check on the person before issuing or renewing the certificate.

Requires GBC to provide to the clerk at the court's request certain criminal history record information.

Relating to the Swisher County Attorney and the Hale County District Attorney—S.B. 1166

by Senator Duncan—House Sponsor: Representative Chisum

The Hale County district attorney currently prosecutes both felony and misdemeanor cases in Hale County and all felony cases in Swisher County. The county attorney of Swisher County currently represents the state in all matters other than felonies. This bill:

Provides that the voters of Hale County elect a district attorney for the 64th Judicial District to represent the state in the district court of Hale County.

Requires the county attorney of Swisher County to represent the state in all matters pending before the district court in Swisher County.

Provides that Chapter 46 of the Government Code, which sets the compensation for state prosecuting attorneys, applies to the county attorney of Swisher County.

Ad Litem and Advocates in Suits Affecting a Parent-Child Relationship—S.B. 1369

by Senator Lucio—House Sponsor: Representative Hunter

An attorney ad litem is appointed by the court to represent and advocate on behalf of an incapacitated or absent person in a proceeding. Current law does not set forth a system for appointing attorneys ad litem. A court may appoint a volunteer advocate on behalf of a child in certain proceedings under the Family Code. This bill:

Requires a local administrative judge to establish and maintain a list of all attorneys qualified to serve as an attorney ad litem.

Requires that the list contain the names of all attorneys who meet any statutory or other requirements to serve as an attorney ad litem; and have registered to serve as attorney ad litem with a court for which the judge serves as local administrative judge.

Requires a court, in each case in which the appointment of an attorney ad litem is necessary, to appoint the attorney whose name appears first on the list of attorneys ad litem.

Authorizes a court to appoint an attorney whose name does not appear first on the list or who is not included on the list if the appointment of that attorney is required on a complex matter because the attorney possesses relevant specialized education, training, certification, or skill; made pursuant to certain chapters of the Texas statutes; or agreed on by the parties and approved by the court.

Requires the local administrative judge, after an attorney has been appointed from the list, to place that attorney's name at the end of the list.

Requires each local administrative judge, not later than December 1, 2009, to establish such list.

Requires volunteer advocate programs to comply with recognized standards for volunteer advocate programs.

Requires the statewide organization with which the attorney general contracts under Chapter 264 (Court-appointed Volunteer Advocate Programs) to contract for services with eligible volunteer advocate programs to provide advocacy services to abused or neglected children.

Provides that expenses incurred by a volunteer advocate program to promote public awareness of the need for volunteer advocates or to explain the work performed by such volunteers that are paid from the attorney general volunteer advocate program account are not considered administrative expenses.

Requires that the contract to provide training, technical assistance, and evaluation services for the benefit of local volunteer advocate programs between the attorney general and a statewide organization include measurable goals and objectives relating to the number volunteer advocates in the program and children receiving services from the program; and follow practices designed to ensure compliance with standards referenced in the contract.

Modifies the eligibility requirements for an entity to enter into such contract to require that the entity have provided court-appointed advocacy services for at least six months, rather than two years.

Child Support Arrearages Based on Disability Payments—S.B. 1514

by Senators Watson and Zaffirini—House Sponsor: Representative Phillips

Currently, the Family Code prohibits a court from reducing a money judgment for child support arrearages without an express authorization from the legislature. At issue are cases in which a lump sum payment is made by the federal Social Security Administration or Veterans Administration to the obligee for a child's benefit because of the child support obligor's disability. The Family Law Section of the State Bar of Texas and the Texas Family Law Foundation have recommended that such lump sums should be credited toward the arrearages. This bill:

Provides that an obligor is entitled to a credit if a child receives a lump-sum payment as a result of the obligor's disability and that payment is made to the obligee as the representative payee of the child; and such credit is equal to the amount of the lump-sum payment and must be applied to any child support arrearage and interest owed by the obligor.

Authorizing a Relative of a Child to Make Decisions Regarding the Child—S.B. 1598

by Senator Watson—House Sponsor: Representative Herrero

In Texas, more than 240,000 children in Texas are living in households with neither parent present. Caregivers must initiate law suits to be granted the right to act on a child's behalf. This bill:

Authorizes the parent or parents of a child and the child's grandparent, adult sibling, or adult aunt or uncle to enter into an authorization agreement authorizing the relative to perform certain specified acts in regard to the child.

Provides that in the event there is any conflict between this Act and any other law relating to the eligibility requirements, other than parental consent to obtain services set forth under this Act, the other law controls.

Provides that the authorization agreement does not grant the relative the right to authorize an abortion or emergency contraception for the child.

Sets forth the information that must be included in the authorization agreement must contain and warnings and disclosures that must be included in such agreement.

Requires the authorization agreement to be signed and sworn to before a notary public by the parties.

Prohibits a parent from executing an authorization agreement without a written order by the appropriate court if:

- there is a court order or pending suit affecting the parent-child relationship;
- there is pending litigation concerning child custody, possession, placement, access or visitation; or
- the court has continuing, exclusive jurisdiction over the child.

Provides that an authorization agreement obtained in violation of this prohibition is void.

Requires the parties, if both parents did not sign the authorization agreement, to mail a copy of the executed authorization agreement to the parent who was not a party, if that parent is living and his or her parental rights have not been terminated. Failure to comply will void the authorization agreement.

Requires a party to the authorization agreement to immediately inform the other parties of any change in address or contact information. Failure to comply renders the authorization agreement voidable by another party.

Provides that an authorization agreement is voidable by a party if the other party knowingly obtained the authorization agreement by fraud, duress, or misrepresentation, or made a false statement on the authorization agreement.

Grants immunity to civil and criminal liability to a person who relies in good faith on an authorization agreement, without actual knowledge that the authorization agreement is void, revoked, or invalid.

Provides that the authorization agreement does not affect the rights of the child's parent or legal guardian and does not grant the relative legal custody of the child and standing or a right to intervene in proceedings affecting the parent-child relationship.

Provides that an authorization agreement terminates if, after the execution of the authorization agreement, a court enters an order affecting the parent-child relationship; concerning custody, possession, or placement of the child; concerning access to or visitation with the child; or regarding the appointment of a guardian for the child under the Probate Code.

Authorizes the court entering the order to give written permission to continue the agreement.

Provides that an authorization agreement terminates on written revocation by a party if the party complies with certain notice and filing requirements. If both parents have signed the authorization agreement, either parent may revoke the authorization agreement without the other's consent.

Provides that if an authorization agreement executed does not include an expiration date, the authorization agreement is valid until revoked.

Makes it a Class B misdemeanor for a person to knowingly present a document that is not a valid as a valid authorization agreement, make a false statement on an authorization agreement, or obtain an authorization agreement by fraud, duress, or misrepresentation.

Requires the Department of Family and Protective Services (DFPS) to prescribe forms for the disclosure statement and authorization agreement under this Act not later than January 1, 2010. DFPS and the Texas Education Agency must make the forms available on their Internet websites or provide paper copies to the public on request without charge.

Child Support Liens on Real Property—S.B. 1661*by Senator Harris—House Sponsor: Representative Truitt*

Currently, there is no statute of limitations on liens on real property to enforce child support. There are other issues regarding such liens that need to be clarified. This bill:

Authorizes an obligor who believes that a child support lien has attached to the obligor's homestead to file an affidavit to release the lien against the homestead in the same manner that a judgment debtor may file an affidavit under the Property Code to release a judgment lien against a homestead.

Authorizes the claimant under the child support lien to dispute the obligor's affidavit by filing a contradicting affidavit in the manner provided by the Property Code. If the claimant files a contradicting affidavit, the issue must be resolved in the district court of the county in which the real property is located and the lien was filed.

Provides that a lien to enforce child support arrearages filed against real property is effective until the 10th anniversary of the date on which the lien notice was filed with the county clerk, and may be renewed for subsequent 10-year periods by filing a renewed lien notice in the same manner as the original lien notice.

Provides that for the purposes of establishing priority, a renewed lien notice filed before the applicable 10th anniversary relates back to the date the original lien notice was filed. A renewed lien notice filed on or after the anniversary has priority over any other lien recorded with respect to the real property only on the basis of the date the renewed lien notice is filed.

Repeals a provision of the Family Code requiring the Title IV-D agency, in each Title IV-D case (child support enforcement under Part D of Title IV of the federal Social Security Act) in which the total amount of a child support obligor's child support delinquency is at least \$5,000 and the obligor owns property in the state or resides in the state, to enforce the child support obligation by filing a child support lien.

Disbursement of Child Support Payments in Title IV-D Cases—S.B. 1777*by Senator Harris—House Sponsor: Representative Shelton*

The Legislative Budget Board and the Office of the Attorney General, which administers the state's Title IV-D child support program (child support enforcement under Part D of Title IV of the federal Social Security Act), recommend using electronic funds transfers for paying child support. This bill:

Authorizes the state disbursement unit to make a direct deposit of payment to an obligee by electronic funds transfer into an account with a financial institution maintained by the obligee.

Makes it the responsibility of the obligee to notify the state disbursement unit of the existence of the account and provide certain information.

Requires the state disbursement unit to deposit a child support payment by electronic funds transfer into a debit card account established for the obligee by the Title IV-D agency if the obligee:

- does not maintain an account with a financial institution;
- fails to notify the state disbursement unit of the existence of an account; or
- closes an account maintained with a financial institution previously used to accept direct deposit of a child support payment and fails to establish a new account and notify the state disbursement agency.

Requires the Title IV-D agency to issue a debit card to each obligee for whom a debit card account is established and instruct the obligee on activating and using the card.

Authorizes an obligee to request that payments be provided by paper warrants if the obligee alleges that receiving payments by electronic funds transfer would impose a substantial hardship.

Provides that a child support payment deposited by electronic funds transfer is solely the property of the obligee.

Provides that 72.101 (Personal Property Presumed Abandoned), Property Code, does not apply to money collected as child support that is being held for disbursement by the state disbursement unit, pending identification and location of the person to whom the money is owed; or has been disbursed by the state disbursement unit by electronic funds transfer into a child support debit card account, but not activated by the individual.

Provides that an "account" as defined under Chapter 73 (Property Held by Financial Institutions), Property Code, includes a child support debit card account established under this Act.

Calculation of a Person's Net Resources for Determining Child Support Liability—S.B. 1820

by Senator Fraser—House Sponsor: Representative Madden

Under current law, when a court calculates a person's net resources for the purpose of determining child support liability, there is no express exclusion of payments made for foster care of a child. This bill:

Excludes from net resources any benefits paid in accordance with the Temporary Assistance for Needy Families program or payments for foster care of a child.

Involuntary Termination of Parental Rights—S.B. 1838

by Senator Dan Patrick—House Sponsor: Representative Zerwas

Current law sets out when parental rights may be involuntarily terminated, but does not address the issue when one parent has been convicted of criminal attempt (intentionally does an act amounting to more than mere preparation, but fails to commit the offense) or criminal solicitation (attempts to induce another to engage in specific criminal conduct) of the murder of the other parent. This bill:

Authorizes a court to order termination of the parent-child relationship if the court finds by clear and convincing evidence that the parent has been convicted of criminal attempt or criminal solicitation under the Penal Code or under a similar state, federal foreign, or military law.

Guardianship Examination Requirements of Persons With Mental Retardation—S.B. 2344

by Senator Uresti—House Sponsor: Representative Naishtat

When an application has been filed to create a guardianship for a person with mental retardation, a judge may not grant that application without a letter or certificate from a licensed physician or psychologist providing verification of the person's mental retardation. When the legislature amended the Probate Code in 1993 to allow these certificates to be submitted by psychologists, there was a stated belief that the psychologists needed to follow certain rules and procedures when making their assessments. In response, the legislature amended the code to require that psychologists comply with the rules developed by the Texas Department of Mental Health and Mental Retardation. However, this change unintentionally required physicians to be certified as having complied with the Health and

Human Service Commission's (HHSC) rules, despite the fact that physicians had previously been subject only to their own medical standards of professional conduct. This bill:

Prohibits a court from granting an application to create a guardianship for certain incapacitated persons, other than a person with mental retardation, unless the applicant presents to the court a written letter or certificate from a physician licensed in this state that is dated not earlier than the 120th day before the date of the filing of the application and based on an examination the physician performed not earlier than the 120th day before the date of the filing of the application that includes:

- a description of the nature, degree, and severity of incapacity, including functional deficits, if any, regarding the proposed ward's ability to perform certain specified actions;
- an evaluation of the proposed ward's physical condition and mental function and summarizing the proposed ward's medical history if reasonably available;
- a statement regarding how the proposed ward's ability to make or communicate responsible decisions concerning himself or herself is affected by the person's physical or mental health, including the proposed ward's ability to understand or communicate, recognize familiar objects and individuals, perform simple calculations, reason logically, and administer to daily life activities; and
- a description of the precise physical and mental conditions underlying a diagnosis of a mental disability, stating whether the proposed ward would benefit from supports and services that would allow the individual to live in the least restrictive setting.

Provides that if the basis of the proposed ward's alleged incapacity is mental retardation, the court may not grant an application to create a guardianship for the proposed ward unless the applicant presents to the court a written letter or certificate:

- complying with this Act and stating that the physician has made a determination of mental retardation in accordance with the Health and Safety Code; or
- showing that, not earlier than 24 months before the date of the hearing, the proposed ward was examined by a physician or psychologist licensed in this state or certified by the Department of Aging and Disability Services to perform the examination, in accordance with rules of the HHSC executive commissioner governing such examinations, and the physician's or psychologist's written findings and recommendations, including a statement as to whether the physician or psychologist made a determination of mental retardation in accordance with the Health and Safety Code.

Removal of a Member of the Board of the Lynn County Hospital District—H.B. 118

by Representative Heflin—Senate Sponsor: Senator Duncan

Currently, it is grounds for removal of a member of the board of directors (board) of the Lynn County Hospital District (district) if the member is absent from more than three-fourths of the regularly scheduled board meetings. This bill:

Provides that it is a ground for removal for a member of the board if the member is absent from more than half of the regularly scheduled board meetings.

Reporting Requirements of Emergency Services Districts—H.B. 527

by Representative Leibowitz—Senate Sponsor: Senator Zaffirini

Emergency Service Districts (ESDs), which provide local emergency services, including emergency medical services, emergency ambulance services, and fire prevention and control services, are authorized to impose a sales and use tax or an ad valorem tax to provide funding for the services that they provide. Generally, the commissioners court of the county in which an ESD is located appoints members to the board of directors. The board of directors of an ESD is required to meet monthly; keep minutes and records of its acts and proceedings; give reports to certain authorized persons, including a written report to the commissioners court regarding the ESD's administration and financial conditions each year; and administer the ESD in accordance with the law. This bill:

Requires that the board of directors of an ESD give a written report to the commissioners court of the county in which the ESD is located upon written request by the commissioners court regarding the district's budget, tax rate, and debt service for the preceding fiscal year.

Authorizes the commissioners court in a county in which an ESD is located to remove certain board members if the board of directors of an ESD failed to give the written report requested by the commissioners court by a particular deadline.

Public Improvement District Funding and Expenditures—H.B. 621

by Representative Elkins—Senate Sponsor: Senator West

Current law authorizes the governing body of a municipality or county that creates a public improvement district (district) to fund improvement projects by collecting assessments, issuing and selling revenue or general obligation bonds, and issuing temporary notes or time warrants. However, the law is not clear as to the method of payments for costs incurred by the governing body and the repayment of obligations relating to the improvement projects. This bill:

Sets forth provisions relating to the interest rate for assessments and liens against the property assessed.

Requires that costs payable by the municipality or county be paid under an installment sale contract or a reimbursement agreement with a person who contracts to install or construct the improvement for which the costs apply; as provided by a temporary note or time warrant issued by the municipality or county to reimburse a person for money advanced or work performed in connection with the improvement; or by the issuance and sale of revenue or general obligation bonds.

Authorizes the governing body of the municipality or county to pledge all or part of the income from improvements to pay for the obligations previously issued or agreed to.

Election Date for the Goliad County Groundwater Conservation District—H.B. 753

by Representative Gonzalez Toureilles—Senate Sponsor: Senator Hegar

The Goliad County Groundwater Conservation District was created in 2001 by authority of H.B. 3651, Acts of the 77th Legislature, Regular Session, 2001. Goliad County voters approved the district on November 6, 2001. This bill:

Requires that an election be held on the first uniform election date in November every two years to elect the appropriate number of directors to the board.

Provides that all governmental and proprietary actions of the Goliad County Groundwater Conservation District taken before the effective date of this Act are validated, ratified, and confirmed in all respects as if the actions had been taken as authorized by law.

Notice of Hearing by Municipal Management Districts—H.B. 871

by Representatives Farrar and Walle—Senate Sponsor: Senator Gallegos

The board of directors of a municipal management district (district) is required to hold a public hearing to consider a proposed improvement project, the estimated cost of the project, and the method of assessment used to finance the project. Notice of the hearing is required to be mailed by certified mail, return receipt requested, at least 30 days before the scheduled hearing to each property owner in the district who will be subject to assessment. This requirement can be a financial burden on a number of districts. This bill:

Authorizes the board of directors of a district to determine another method to provide adequate proof that the notice was timely mailed.

Development of Affordable Housing by Public Improvement District—H.B. 1029

by Representatives Rodriguez and Guillen—Senate Sponsor: Senator Watson

The governing body of a municipality or county is authorized to create and establish a public improvement district for the purpose of undertaking a number of improvement projects, including the construction or improvement of transportation routes and facilities, water and drainage facilities, libraries, parks, and landscaping. This bill:

Includes the development, rehabilitation, or expansion of affordable housing to the list of authorized improvement projects.

Creation of the Starr County Drainage District—H.B. 1178

by Representative Guillen—Senate Sponsor: Senator Zaffirini

In recent years, property owners in Starr County have experienced severe flooding. In 2007 and 2008, the flooding of the cities of Roma, Rio Grande, and Escobares forced hundreds of citizens to evacuate and caused in excess of one million dollars in damages. This bill:

Provides that the Starr County Drainage District (district) is created within the boundaries of Starr County, has the powers and duties of a drainage district under Chapters 49 (Provisions Applicable to All Districts) and 56 (Drainage Districts), Water Code, and is subject to a confirmation election by the voters of the district.

Membership of Boards of Certain Emergency Communication Districts—H.B. 1187

by Representative Kolkhorst—Senate Sponsor: Senator Hegar

Chapter 772 (Local Administration of Emergency Communications), Health and Safety Code, establishes 9-1-1 as the primary emergency telephone service to be provided by emergency communication districts across the state. The code sets forth the composition of the board of managers that govern the district in counties with varying populations. This bill:

Provides that the board of managers of an emergency communication district located entirely in a county with a population of less than 30,000 consists of certain members, including a peace officer appointed by the county sheriff.

Election Ballot Language to Approve Bonds Issued by Certain Hospital Districts—H.B. 1366

by Representatives Jim Jackson and Laubenberg—Senate Sponsor: Senator Dan Patrick

Hospital districts are authorized to impose taxes and issue bonds for the purpose of financing proposed hospital district improvement projects upon approval by a majority of the votes received at an election held for that purpose. This bill:

Sets forth the information to be included in the official proposition submitted to the voters at an election held relating to improvements by hospital districts in counties with a population of at least 190,000.

Territory of the Trinity Glen Rose Groundwater Conservation District—H.B. 1518

by Representative Corte—Senate Sponsor: Senator Wentworth

The Trinity Glen Rose Groundwater Conservation District (district) is located within the northern crescent of Bexar County, between Loop 1604 and the county line, and within the corporate limits of the city of Fair Oaks Ranch, portions of which are in Comal and Kendall counties. The district was created in 2001 and has been confirmed and has an approved management plan. This bill:

Restricts the amount of fees the district may impose on nonexempt wells in the district to a maximum of \$1 per acre-foot of water used for agricultural purposes or \$40 per acre-foot of water used for any other purpose and to provide for adding to the territory of the district vacant and inhabited territory annexed by a municipality that has chosen the district as its groundwater conservation district.

Validates certain governmental acts and proceedings of the district.

Reimbursement for Improvements in Public Improvement Districts—H.B. 1730

by Representative Pitts—Senate Sponsor: Senator Averitt

Counties and municipalities are authorized under current law to create and establish public improvement districts to fund an improvement project, such as landscaping and constructing or improving sidewalks, streets, or parking facilities, among other projects. Such improvement projects may be funded through various means, including the collection of assessments and the issuance of bonds. This bill:

Authorizes the governing body of a municipality or county to issue and sell general obligation bonds or revenue bonds to reimburse a developer for the cost of a public improvement if the public improvement is located in a public improvement district created on or after January 1, 2005; the public improvement has been dedicated to and accepted by the municipality or county; and before the public improvement was dedicated to and accepted by the

municipality or county, the governing body of the municipality or county entered into an agreement with the developer to pay for the public improvement.

Irion County Water Conservation District—H.B. 1923

by Representative Heflin—Senate Sponsor: Senator Duncan

Currently, the board of directors of the Irion County Water Conservation District (district) have an election cycle that is not aligned with the uniform election date and the directors only serve two-year terms of office. This bill:

Makes changes to accommodate the annexation of territory or consolidation with another district.

Moves the election date for directors from the first Saturday in April of each year to the uniform election date in May.

Increases the term of office of directors from two years to four years.

Aligns the amount of compensation a director is entitled to receive for each day the director is engaged in district business with the fees of office specified in the Water Code.

Modifies the district's purpose and authority to that of a groundwater conservation district rather than a water control and improvement district.

Revises provisions relating to dates of board meetings, appointments of a treasurer and attorney for the district, a bond requirement for the general manager of the district, and the adoption of a district seal.

Directors of the Guadalupe County Groundwater Conservation District—H.B. 1947

by Representative Kuempel—Senate Sponsor: Senator Wentworth

The Guadalupe County Groundwater Conservation District (district) was created by the Texas Legislature in 1997 and the creation of the district was approved by the voters in Guadalupe County in 1999. The district has the authority to manage and conserve the groundwater resources within its boundaries. Certain procedures for the election process of the district need to be updated. This bill:

Requires the Guadalupe County Groundwater Conservation District (district) to hold an election in the district to elect the appropriate number of directors to the district's board of directors.

Repeals Section 6(g) (relating to prohibiting a director from serving more than two consecutive four-year terms), Chapter 1066, Acts of the 75th Legislature, Regular Session, 1997.

Contracts and Purchases by Navigation Districts—H.B. 1972

by Representative Hamilton—Senate Sponsor: Senator Williams

Navigation districts in Texas are required to follow competitive bidding requirements for purchases of contracts involving a known or reasonably expected expenditure in an amount exceeding \$25,000. This threshold was established in 1995, and the threshold has not been increased in the last 14 years despite ever increasing costs of projects.

For projects in which competitive bidding is required, current law requires that bidders attach to the bid a certified check, cashier's check, or bidders bond as security for liquidated damages in the event the bidder is the apparent successful bidder, but fails or refuses to enter into the contract for which the bid is made. This bill:

Authorizes a port commission, an authorized designated officer of the port commission, the executive director of the navigation district or the port authority, or an authorized representative of the executive director to make routine purchases or contracts in an amount not to exceed \$50,000, rather than \$25,000.

Requires that specifications require the attachment to the bid of a certified check, cashier's check, or bidders bond if the bid specifications require the bidder to provide a certified check, cashier's check, or bidders bond.

Division of Certain Emergency Services District—H.B. 2212

by Representative Craddick—Senate Sponsor: Senator Duncan

The cities of Midkiff and Rankin are both served by the same emergency services district in Upton County; however, the cities are located approximately 35 miles apart. Currently, all of the emergency response equipment is located in Rankin, causing concern to the residents of Midkiff of the potential delay in emergency response time. This bill:

Authorizes an emergency services district board of directors of a district located wholly in one county with a population of 20,000 or less to create a new district by disannexing territory from the existing district and ordering a new district to be created.

Sets forth the procedure for creating such a new district.

Election on Fire Control, Prevention, and Emergency Medical Services District—H.B. 2228

by Representatives Parker and Wayne Smith—Senate Sponsor: Senator Nelson

Certain local governments are authorized to issue a local sales and use tax for certain purposes, such as to finance street maintenance and to fund crime control and prevention districts and fire control, prevention, and emergency medical services districts. Statutory provisions relating to the street maintenance sales and use tax provide for the reauthorization of the tax in the fourth year, which is similar to the laws relating to the crime control and prevention district sale and use tax that provides for a referendum on the tax four years after the district is created. Fire control, prevention, and emergency medical services districts, however, are authorized to call and hold a referendum election on the question of whether to continue or dissolve the district on the fifth year after the district was created. This bill:

Provides uniformity between the statutory provisions relating to the continuance of a local sales and use tax by prohibiting a fire control, prevention, and emergency medical services district to call and hold a referendum election on the question of whether to continue or dissolve the district on the fourth year after the district was created.

Terms of Commissioners on Board in Certain Emergency Services Districts—H.B. 2529

by Representative Harless—Senate Sponsor: Senator Dan Patrick

Currently, the five commissioners on the board of an emergency services district located wholly in a county with a population of more than three million or located in more than one county serve staggered, two-year terms, thereby requiring board commissioner elections to be held annually. This bill:

Changes the term of a commissioner on the board of an emergency services district located wholly in a county with a population of more than three million or located in more than one county from two years to four years and requires that the general election for commissioner be held every two years, rather than annually.

Smith Road Water Control and Improvement District No. 1—H.B. 2668

by Representative Ritter—Senate Sponsor: Senator Williams

Smith Road Water Control and Improvement District No.1 of Jefferson County (district) will encompass an area of land that will be located inside the extraterritorial jurisdiction of the City of Beaumont, Texas. The land to be located within the district will be developed into single-family residential property; therefore, flood control, water, sewer, drainage, and road services need to be secured. It is necessary to create the district under Chapters 49 (Provisions Applicable to All Districts), 51 (Water Control and Improvement Districts), and 57 (Levee Improvement Districts), Water Code, in order to purchase, acquire, or construct facilities for such services to serve the future occupants of the land utilizing tax exempt bonds. This bill:

Creates the district, subject to voter approval at a confirmation election.

Grants the district the general powers of a water control and improvement district, including the power to issue bonds and impose taxes.

Authorizes the district to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

Grants the district levee and flood hazard mitigation powers and requires the district to purchase potable water for the district from the West Jefferson County Municipal Water District or a successor to that supplier of potable water.

Consolidation of Municipal Management Districts—H.B. 3009

by Representative Coleman—Senate Sponsor: Senator Ellis

Current law authorizes two or more municipal management districts to consolidate only after approval by a majority of the votes cast in an election for that purpose. However, it is not always feasible for some municipal management districts to hold a consolidation election because they contain mostly commercial property, the owners of which are unable to vote in such an election. This bill:

Authorizes two or more municipal management district to consolidate into one district if none of the districts to be consolidated has issued bonds or notes secured by assessments or ad valorem taxes, or has levied taxes.

Sets forth the procedure and the terms and conditions for consolidation and the governance and taxing authority of consolidated districts.

Exempting Utility Property from Impact Fees and Assessments—H.B. 3435

by Representative Hamilton—Senate Sponsor: Senator Mike Jackson

Municipal utility districts (MUD) have the right to charge property owners within their districts impact fees and stand-by fees, and other special districts, like management districts, have the right to charge assessments. These fees and assessments affect the electric, telecommunications, cable, and natural gas utilities because a MUD or special district could place these fees and assessments on rights-of-way and equipment in a district even when the utilities

do not use or benefit from the services provided by that district. For example, an electric utility that owns an easement with transmission and distribution lines running through a MUD should not be required to pay fees to the MUD for the provision of water and sewer services that it does not utilize and likely will never utilize.

As a result, the utilities jointly amend or attempt to amend each bill creating a MUD or special district bill to exempt utilities from these fees and assessments. This is a time-consuming and inefficient process, however, because every session hundreds of MUD and special district bills are filed. Moreover, some bills create multiple districts and require multiple amendments. This bill:

Prohibits a water district (district), with certain exceptions, from imposing an impact fee, standby fee, or assessment on the property, including the equipment, rights-of-way, easements, facilities, or improvements, of an electric utility or power generation company, a gas utility or a person who owns pipelines used for the transportation or sale of oil or gas or a product or constituent of oil or gas, a person who owns pipelines used for the transportation or sale of carbon dioxide, a telecommunications provider, or a cable service or video service provider.

Authorizes a district to impose such a fee or assessment on such property that is used as office space and may impose an impact fee on such property on the same terms as the district imposes an impact fee on other property if the owner of the property requests water or sewer services for that property from the district. The bill's prohibition on a district does not affect a district's authority to impose a property tax on property in the boundaries of the district under the bill or under other law.

Compensation for the Port of Port Arthur Navigation District of Jefferson County—H.B. 3692

by Representative Deshotel—Senate Sponsor: Senator Huffman

The compensation of the commissioners of the Port of Port Arthur Navigation District of Jefferson County has not been increased since the district's creation in the early 1960s. Over the last several months, the commissioners conducted an informal survey and determined that commissioners of comparable districts are paid significantly more than the district's current \$50 per month for commissioners and \$75 per month for the president. The commissioners and president requested an increase to \$200 and \$250, respectively. The compensation sought is still less than that of comparable districts such as Beaumont, where commissioners are paid \$500 and \$550 per month. This bill:

Increases the compensation of the members of the board of port commissioners of the Port of Port Arthur Navigation District of Jefferson County from \$50 to \$200 per month and the compensation of the president of the board from \$75 to \$250 per month.

East Austin Homestead Preservation District—H.B. 3983 [VETOED]

by Representative Rodriguez—Senate Sponsor: Senator Watson

This legislation modifies the provisions relating to a homestead preservation district in East Austin. H.B. 525 (Rodriguez et al.; SP: Barrientos), 79th Legislature, Regular Session, 2005, created the homestead preservation district in East Austin to mitigate the effects of rising property taxes in the area by allowing the City of Austin to use three policy tools: a land trust, a land bank, and a reinvestment zone. The reinvestment zone allows the city and Travis County to create a tax increment financing zone, which is a funding mechanism that designates a percentage increase in taxable value towards a specified use, in this case for affordable housing. H.B. 525 required the city and county to participate equally in the financing zone. Since the passage of H.B. 525, the city has agreed to participate in the financing zone but the county has raised concerns regarding the language in H.B. 525 relating to equal participation in the reinvestment zone. This legislation also sets forth provisions for a study regarding ad valorem tax relief through the use of a circuit breaker program. This bill:

Requires the county to pay into the tax increment fund for the zone the same percentage of the tax increment produced by the county that the municipality pays into the fund.

Deletes existing text providing that the zone designated by the ordinance adopted takes effect on the date on which the county adopts a final order specifying an amount of tax increment to be deposited by the county into the tax increment fund that is equal to the amount of the tax increment specified by the municipality.

Sets forth provisions for the composition, terms, powers and duties of and eligibility for the board of directors of a homestead preservation reinvestment zone.

Defines "circuit breaker program."

Requires the comptroller of public accounts (comptroller) to conduct a study to examine circuit breaker programs as a means of expanding and protecting the homestead interests of low-income to moderate-income families.

Provides that limitations set out in Section 373A.003 (Applicability of Chapter), Local Government Code, do not apply to this section.

Requires the comptroller, before collecting information for purposes of the study, to establish an advisory committee to assist the comptroller in conducting the study.

Requires that the advisory committee be composed of representatives of certain entities.

Requires the comptroller, with the assistance of the advisory committee, to study:

- methods to implement a circuit breaker program, including the use of rebates or tax credits;
- methods to create a simple, transparent process for the owner of a residence homestead to apply for and receive a limitation on the amount of ad valorem taxes that may be imposed on the homestead under a circuit breaker program;
- the effects of different designs of a circuit breaker program, including the effect of limiting which taxing units are involved, basing eligibility on a maximum annual income level, limiting the dollar amount of the benefit that a property owner could receive in the program, and basing eligibility on a minimum ratio of residence homestead ad valorem taxes imposed to annual income; and
- methods to ensure the reliability of a property owner's statement of annual income.

Requires the comptroller and the advisory committee to analyze the information studied and prepare a report that describes, estimates, analyzes, and specifies certain information.

Authorizes the comptroller to contract with appraisal districts, taxing units, or other appropriate organizations for assistance and to obtain information necessary to conduct the study.

Requires the comptroller, not later than December 1, 2010, to submit to the governor, lieutenant governor, and speaker of the house of representatives the required report.

Bexar-Medina-Atascosa Counties Water Control and Improvement District—H.B. 4706

by Representative Tracy King—Senate Sponsor: Senator Uresti

Previous law did not specifically address the compensation of the board of directors of the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1. This bill:

Establishes that a director of the district is not entitled to receive a fee of more than \$150 a month for performing the duties of a director.

Tax Exemptions of the Cow Creek Groundwater Conservation District—H.B. 4713

by Representative Doug Miller—Senate Sponsor: Senator Wentworth

The Cow Creek Groundwater Conservation District (district) currently levies an ad valorem tax. The district is required to implement a tax relief program for utilities. These exemptions are difficult and costly to apply. The exemptions would be of such a small monetary amount that the cost of calculating and implementing the program would be far greater than the exemption granted and would not lend itself to promoting the conservation of groundwater. This bill:

Authorizes the district to exempt property on which a water conservation initiative is implemented from property taxes.

Repeals provisions that require the district to grant an exemption or relief from property taxes on property served by a retail public utility under certain conditions.

Territory of and Validation of Certain Acts of the Edwards Aquifer Authority—H.B. 4762

by Representative Tracy King—Senate Sponsor: Senator Uresti

Three groundwater withdrawal permits were issued by the Edwards Aquifer Authority (authority) in Atascosa County and later determined to be outside of the boundaries of the authority. However, the permit holders want their land to be included in the boundaries of the authority and want to hold permits issued by the authority. This bill:

Adds certain parcels of land to the territory of the Edwards Aquifer Authority.

Provides that all governmental acts and proceedings of the authority relating to certain initial regular groundwater withdrawal permits that were issued by the authority as of January 1, 2005, are validated in all respects, except for any matter that on the effective date of the bill is involved in litigation that ultimately results in the matter being held invalid by a final court judgment, or any matter that has been held invalid by such a judgment.

Powers and Financing of Brazoria County Groundwater Conservation District—H.B. 4785

by Representative Weber—Senate Sponsor: Senator Mike Jackson

The Brazoria County Groundwater Conservation District (district) was created in 2003 to protect the quantity and quality of Brazoria County (county) groundwater for future generations of county residents. The district was confirmed by voters in a 2005 election, creating a reasonable expectation that the district would establish and impose a groundwater production fee in an amount sufficient to execute the operation and duties of the district.

The bill creating the district in 2003 did not establish a maximum production fee, meaning that the current maximum fee is 3.06 cents per thousand gallons of water withdrawn from a well in the district. The current maximum fee is not sufficient to meet the demands placed on the district. This bill:

Specifies that the production fee established and imposed by the board of directors is based on the amount of groundwater authorized by permit to be withdrawn from a well or the amount of groundwater actually withdrawn from a well in an amount not to exceed 17 cents per thousand gallons.

Requires the election of directors to be held biennially on the uniform election date in May and provides for the term of a director whose term expires in November 2010 and a director whose term expires in November 2012.

Comal County Water Control and Improvement District No. 6—H.B. 4811

by Representative Doug Miller—Senate Sponsor: Senator Mike Wentworth

A water district is a local, governmental entity that provides limited services, such as water storage, supply, and conservation, to its customers and residents. Comal County Water Control and Improvement District No. 6 (district) will encompass an area of land in the extraterritorial jurisdiction of the City of Bulverde, Comal County. It is necessary to create the district under Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code, and Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, in order to purchase, acquire, or construct facilities for such services to serve the future occupants of the land utilizing tax exempt bonds. It is also necessary to empower the district with authority to impose a tax and issue bonds; granting the power of eminent domain. This bill:

Creates the district, subject to voter approval at a confirmation election.

Grants the district the general powers of a water control and improvement district, including the power to issue bonds and impose taxes.

Authorizes the district to undertake certain road projects. Bonds for road projects require approval by a two-thirds majority of those voting in a district election and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

Prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project or recreational facility.

Prohibits the district from constructing any water or wastewater improvement unless the plans and specifications for the improvement have been approved by Comal County, the City of Bulverde, and any wholesale provider of water or wastewater treatment to the district.

Terms of Board Members of an Emergency Services District—H.J.R. 85

by Representative Harless—Senate Sponsor: Senator Dan Patrick

Elections are held every year to elect members of the governing board of an emergency services district in Harris County due to the staggered two-year terms. This resolution:

Proposes a constitutional amendment to allow the legislature to provide that members of the governing board of an emergency services district or authority serve terms not to exceed four years.

Creation of the Wharton County Drainage District—S.B. 637

by Senator Hegar—House Sponsor: Representative Zerwas

It is necessary to create a drainage district in Wharton County. This bill:

Creates the Wharton County Drainage District (district), subject to voter approval at a confirmation election.

Establishes that the district territory is coextensive with the boundaries of Wharton County and grants the district the general-law powers of a drainage district.

Dissolution of the Tablerock Groundwater Conservation District—S.B. 663

by Senator Averitt—House Sponsor: Representative Sid Miller

The Tablerock Groundwater Conservation District (district), created by S.B. 3, 80th Legislature, Regular Session, 2007, is a single-county district in Coryell County. Coryell County is pursuing efforts to join an existing groundwater conservation district to manage the aquifer on a regional basis. This bill:

Dissolves the district on its effective date and repeals the district's chapter in the Special District Local Laws Code.

North Texas Municipal Water District—S.B. 715

by Senator Shapiro—House Sponsor: Representative Laudenberg

The North Texas Municipal Water District (NTMWD) is a conservation and reclamation district created by the 52nd Legislature, Regular Session, 1951. Currently, NTMWD provides water, wastewater services, and solid waste services to wholesale and retail customers in Collin, Dallas, Denton, Hunt, Kaufman, and Rockwall counties. This bill:

Requires NTMWD to appoint an executive director, replacing previous law under which the president of the board of directors (board) served in that capacity.

Increases the fees paid to a director, in the performance of board duties, to \$150 per day and increases the maximum cumulative payment per director per calendar year to \$7,200.

Includes various provisions modifying and clarifying the powers of NTMWD to issue bonds and authorizes the board, if funds are not available, to issue bond anticipation notes, revenue anticipation notes, or both to borrow money needed by NTMWD.

Provides that in the event of a catastrophe or disaster that makes a quorum of the board impossible to assemble, any directors who are available, or the highest ranking staff member of the district otherwise, may take action on the district's behalf to ensure the basic health, safety, and welfare of district customers and to call for the appointment of new directors.

Harrison County and Prairielands Groundwater Conservation Districts—S.B. 726

by Senator Elife—House Sponsor: Representative Hughes

The Texas Constitution authorizes the creation of groundwater conservation districts to manage and conserve groundwater. This bill:

Creates the Harrison County Groundwater Conservation District (HCGCD), coextensive with the boundaries of that county, subject to voter approval at a confirmation election.

Authorizes HCGCD to impose production fees on nonexempt wells, subject to specified maximum rates, as well as groundwater export fees, but prohibits the district from purchasing, selling, transporting, or distributing surface water or groundwater and from exercising the power of eminent domain.

Limits ad valorem tax rates to not more than 1.5 cents per \$100 valuation and sets a \$500,000 limit on indebtedness from HCGCD bond and note issuances.

Provides that the provisions of the bill pertaining to HCGCD take effect June 19, 2009.

Creates the Prairielands Groundwater Conservation District (PGCD), subject to voter approval at a confirmation election. The initial PGCD boundaries encompass Ellis, Hill, Johnson, and Somervell counties and, after September 1, 2009, Navarro County.

Establishes contracting authority for PGCD.

Sets out provisions relating to well spacing requirements and exemptions.

Authorizes PGCD to establish registration and reporting requirements for certain wells that are exempt from permitting under the Water Code.

Authorizes PGCD to impose a fee, with a specified limitation on the amount, on a person producing groundwater in violation of a district rule or order.

Prohibits PGCD from imposing a tax and authorizes it to impose production fees on nonexempt wells and certain wells exempted under the Water Code, subject to specified maximum rates.

Provides that the provisions of the bill pertaining to the Prairielands Groundwater Conservation District take effect September 1, 2009.

Board of Directors of the Central Colorado River Authority—S.B. 794

by Senator Fraser—House Sponsor: Representative Hilderbran

The Central Colorado River Authority (CCRA), a state authority related to control of the Colorado River, was established by the 44th Texas Legislature, Regular Session, 1935. This state conservation and reclamation district is limited in area to Coleman County, and its headquarters is in Coleman, the county seat. The river authority is governed by a nine-member board of directors appointed by the governor to six-year overlapping terms. This bill:

Decreases from nine to five the number of directors on the board of directors of the CCRA.

Establishes that a majority of the membership of the board constitutes a quorum.

Powers and Duties of the Plum Creek Fresh Water Supply District No. 1—S.B. 799

by Senator Williams—House Sponsor: Representative Otto

Plum Creek Fresh Water Supply District No. 1 of Liberty County (district) was originally created by order of the Liberty County commissioners court on November 19, 2007, as a fresh water supply district with the powers of water, sewer, and roads. The district contains approximately 7,220 acres in Liberty County. The land is owned by one property owner, who also owns approximately 200 acres in Montgomery County that is adjacent to the district. This bill:

Changes the name from the Plum Creek Fresh Water Supply District No. 1 of Liberty County to the Plum Creek Fresh Water Supply District No. 1.

Grants the district general-law Water Code powers and duties applicable to fresh water supply districts, as well as the power to undertake drainage projects, and authorizes the district to annex adjacent land.

Authorizes the district to issue bonds or other obligations and to impose taxes, but prohibits the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from property taxes from exceeding one-fourth of the assessed value of real property in the district, and prohibits the district from issuing bonds payable from property taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Includes customary provisions relating to the division of the district into successor districts.

Board of Directors of Anderson County Underground Water Conservation District—S.B. 848

by Senator Nichols—House Sponsor: Representative Cook

The Anderson County Underground Water Conservation District (district) was created during the 70th Legislature, Regular Session, 1987, by S.B. 1518. The law provided that elections for the board of directors would be held in odd years, but elections eventually began to be held during even years.

Last summer, the Texas Legislative Council told the district president that district was out of compliance with the law and that the problem needed to be corrected. According to conversations between the district and the Office of the Secretary of State, the only way to get back into compliance was to introduce a bill to correct this error. This bill:

Changes the election date of the board of directors of the Anderson County Underground Water Conservation District to the uniform election date in May.

County Exemption from Certain Municipal Drainage Utility System Charges—S.B. 874

by Senator Shapleigh—House Sponsor: Representative Quintanilla et al.

The 80th Legislature, Regular Session, 2007, enacted a bill that extended the application of certain municipalities' drainage fees to the unincorporated areas of the county within which the municipality was located. Funds generated by these fees are used to make improvements designed to reduce flooding and address the appropriate drainage of storm water. Current law allows, but does not require, municipalities to exempt the property of governmental entities from the drainage fee. This bill:

Provides that the property owned by a county in which a municipality with a population of more than 500,000 located within 50 miles of an international border is located is exempt from certain drainage charges and all ordinances, resolutions, and rules adopted by a municipality relating to municipal drainage utility systems.

Liberty Lakes Fresh Water Supply District No. 1—S.B. 914

by Senator Williams—House Sponsor: Representative Otto

Liberty Lakes Fresh Water Supply District No. 1 of Liberty County (district) was originally created by order of the Liberty County Commissioners Court on October 28, 2008, as a fresh water supply district with the powers of water, sewer, and roads. The district contains approximately 18,135 acres in Liberty County. This bill:

Changes the name from the Liberty Lakes Fresh Water Supply District No. 1 of Liberty County to the Liberty Lakes Fresh Water Supply District No. 1.

Grants the district general-law Water Code powers and duties applicable to fresh water supply districts, as well as the power to undertake drainage projects, and authorizes the district to annex adjacent land.

Authorizes the district to issue bonds or other obligations and to impose taxes but prohibits the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from property taxes from exceeding one-fourth of the assessed value of real property in the district, and prohibits the district from issuing bonds payable from property taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Includes customary provisions relating to the division of the district into successor districts.

Creation and Financing of Public Improvement Districts—S.B. 978 [VETOED]

by Senator Royce West—House Sponsors: Representatives Elkins and Coleman

Recent attempts to apply the Public Improvement District Assessment Act, Chapter 372 (Improvement Districts in Municipalities and Counties), Local Government Code, to address the financing needs of certain municipalities for the development of public infrastructure in a growing capital market has caused the attorney general, municipalities, and developers to identify various technical corrections that need to be addressed in the current statute. This bill:

Amends current law regarding the creation and financing of public improvement districts, addressing technical changes relating to the petition and hearing for creation of the district; authorized powers and activities of the district; dissolution of the district; assessments, taxes, and bonds collected or issued by the district; and contracts entered into by the district.

Temple Health and Bioscience Economic Development District—S.B. 1033

by Senator Fraser—House Sponsor: Representative Sheffield

The Temple Health and Bioscience Economic Development District (district) has played a role in the City of Temple's bioscience efforts, including the design of the Scott & White Cancer Research Institute. S.B. 1033 amends the Special District Local Laws Code to establish additional public purposes of the district and to expand the district's bonding authority. This bill:

Sets forth additional public purposes of the district to include development and diversification of the economy of the state; the elimination of unemployment or underemployment in the state; the stimulation of agricultural innovation; fostering the growth of enterprises based on agriculture; and the development or expansion of transportation or commerce in the state.

Provides that all or part of the area of the district is eligible to be included in a tax increment reinvestment zone or a tax abatement reinvestment zone created by the City of Temple.

Authorizes the city and the board of directors of the zone (board), by contract with the district, to grant money deposited in the tax increment fund to the district to be used by the district for any purpose, including pledging the money as security for any bonds issued by the district for an improvement project; or give the district the power to manage or implement a reinvestment zone's project or financing plans.

Authorizes the district to exercise any type of property right, including the power to acquire, sell, or lease as lessee or lessor, regarding any type of property interest located inside or outside the boundaries of the district.

Authorizes the district to establish and maintain reasonable and nondiscriminatory rates, fares, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, leased to or by, or maintained by the district.

Authorizes the district to establish projects inside or outside the boundaries of the district for certain purposes.

Authorizes the nonprofit corporation created by the board to be organized to perform biomedical or scientific research or to provide biomedical or scientific education for the benefit of the public.

Requires the nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter or by the Texas Transportation Corporation Act.

Authorizes the district to issue obligations, including revenue bonds, to pay the costs of a project located inside or outside the boundaries of the district.

Prohibits the proceeds of bonds or other obligations that are payable wholly or partly from ad valorem taxes from being used for a project located outside the district.

Authorizes revenue bonds or other district obligations to be payable from and secured by revenue derived from the district's operations.

Authorizes revenue bonds or other district obligations to be secured by a mortgage or deed of trust lien on the district's interest in a project or property, including a fee title or a leasehold interest.

Authorizes the district to issue general obligation bonds if general obligation bonds are authorized by an election.

Authorizes the district, except for water, sewer, or drainage projects financed by taxes imposed by the district, to issue bonds or other obligations and pursue projects without an order of the Texas Commission on Environmental Quality.

Board of Directors of the Canadian River Municipal Water Authority—S.B. 1040

by Senators Duncan and Seliger—House Sponsor: Representative Smithee

For more than 50 years, the Canadian River Municipal Water Authority (CRMWA) has worked to serve its member cities and all citizens of the Texas Panhandle and South Plains by providing a dependable and safe source of municipal and industrial water.

CRMWA was created specifically to provide services to its member cities. Therefore, actions taken by the board of directors (board) should reflect the desires, goals, and needs of those cities. When circumstances justify a closed meeting of the board, it is important that the positions of the member cities be taken into account during the discussion. It is not always possible for all circumstance to be known in advance so that member city officials can be adequately briefed before such a meeting. This bill:

Authorizes the inclusion of officers and employees of constituent cities of the district in a closed meeting of the board of directors of CRMWA.

Powers and Retirement Systems of Certain Hospital Districts—S.B. 1063

by Senator Watson—House Sponsor: Representative Naishtat

Legislation passed by the 80th Legislature in 2007 transferred the federally qualified health center status, employees, and clinics from the City of Austin to the Travis County Healthcare District (district). The legislation allowed the district's retirement plan and the district's affiliated charitable organization, Central Texas Community Health Centers (centers), to become proportionate with the City of Austin Employees Retirement System. Several issues have arisen relating to reestablishing service credit and whether the centers qualifies as an agency or instrumentality of a governmental unit. This bill:

Authorizes a person who is a member of a certain retirement system to reestablish service credit previously canceled in another certain retirement system.

Authorizes a hospital district created in a county with a population of more than 800,000 to provide health care services for eligible residents through the purchase of health coverage or other health benefits.

Provides that the board of managers of the district has the powers and duties provided to the commissioners court of a county.

Bastrop County Water Control and Improvement District No. 2—S.B. 1204

by Senator Hegar—House Sponsor: Representative Kleinschmidt

The Bastrop County Water Control and Improvement District No. 2 (district) was created by the Bastrop County Commissioners Court in 1985 to provide water service to the residents within the Tahitian Village subdivision of Bastrop County. In 1986, the district was first given the authority to construct and maintain the roads in the Tahitian Village subdivision. The district currently provides water, sewer, and road maintenance and construction services to customers and lot owners within the subdivision. The district operates under the authority provided in Chapter 11001 (Road District Authority of Bastrop County Water Control and Improvement District No. 2), Special District Local Laws Code, under Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III (Legislative Department), Texas Constitution, and Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code.

Current law authorizes the district board of directors to impose a \$5 monthly charge for each developed or undeveloped unit of property in the district that must be used for certain district road projects. This bill:

Changes the monthly charge to an amount not to exceed \$15, prohibits the board from increasing the monthly charge by more than \$3 in any calendar year, and authorizes the board to grant an exemption from the charge to the owner of a unit of property who is 65 years old or older and uses the property or an owner who has been determined to have a disability under federal law.

Provides that money received from the monthly charge may be used only for specified projects, including purchasing equipment necessary to maintain or repair public streets or roadways in the district.

Requires that not less than 15 percent of the money received each fiscal year be used for road maintenance.

Middle Trinity Groundwater Conservation District—S.B. 1209

by Senator Fraser—House Sponsor: Representative Sid Miller

Currently, the Middle Trinity Groundwater Conservation District (MTGCD) manages and conserves the groundwater resources of Erath and Comanche counties. Based on a recent Central Texas-Trinity Aquifer Priority Groundwater

Management Area study and designation by the Texas Commission on Environmental Quality and the increased awareness of groundwater issues in Central Texas, several counties have approached MTGCD to discuss the annexation of the counties into MTGCD. This bill:

Updates and revises provisions in Texas law relating to MTGCD.

Provides for the composition of the board and the election of directors following annexation of more than two counties by the district after January 1, 2009.

Authorizes the board of directors of MTGCD to change the number of directors elected from a county in the district for the purpose of equalizing representation of the residents in the district and moves the election date to the uniform election date in May of each even-numbered year, with certain exceptions.

Sets forth provisions relating to the applicability and enforcement of district rules and authorizes the district to impose a fee on a person or entity for violation of a district rule or failure to comply with an order in addition to existing remedies.

Riverbend Water Resources District—S.B. 1223

by Senator Eltife—House Sponsor: Representative Frost

The Texas Constitution authorizes the creation of certain water districts as well as provisions relating to the administration, powers, duties, and operation of these districts. This bill:

Creates the Riverbend Water Resources District (district) as a conservation and reclamation district.

Provides that the district is not required to be confirmed at an election.

Provides that the district is composed of the Red River Redevelopment Authority and the Texas cities of Annona, Avery, DeKalb, Hooks, Maud, New Boston, Texarkana, and Wake Village, and is granted the district powers applicable to all general and special law districts under the Water Code.

Authorizes the board to add a member to the district and allows a member to withdraw from the district without affecting the validity of the district or its powers and duties.

Provides that the district also has all the rights, powers, and privileges necessary or useful to enable it to acquire, provide, supply, deliver, and sell water inside or outside its boundaries to any person for any beneficial purpose.

Authorizes the district to issue bonds but prohibits the district from imposing an assessment on property or a property tax or creating a debt payable from either source.

Provides that if the district issues bonds payable wholly from revenue, it is required to set and revise the rates, fees, and charges assessed for water sold, waste collection and treatment services provided, and garbage collection services provided by the district so that the revenue collected is sufficient to pay certain district expenses and maintain certain funds.

Fort Bend County Water Control and Improvement District No. 10—S.B. 1241

by Senator Hegar—House Sponsor: Representative Olivo

The Fort Bend County Water Control and Improvement District No. 10 (district) will encompass an area of land within the extraterritorial jurisdiction of the City of Richmond, Fort Bend County, Texas. The district will provide water, sewer, and road maintenance and construction services to customers and lot owners within the subdivision.

It is necessary to create the district under Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code, in order to purchase, acquire, or construct facilities for such services to serve the future occupants of the land utilizing tax exempt bonds. This bill:

Creates the district, subject to voter approval at a confirmation election, and grants the district general-law powers and duties applicable to water control and improvement districts.

Authorizes the district to contract with the City of Richmond to perform firefighting services in the district and may, with voter approval, issue bonds to pay for capital costs required under the contract.

Provides that the district is not required to submit a fire plan to the Texas Commission on Environmental Quality if it contracts for such firefighting services.

Authorizes the district to undertake certain road projects, but provides that bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the total amount of the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

Prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for an authorized road project or a recreational facility.

Abolishment of the Lower Concho River Water and Soil Conservation Authority—S.B. 1260

by Senator Duncan—House Sponsor: Representative Darby

The 46th Legislature, Regular Session, 1939, created the Lower Concho River Water and Soil Conservation Authority (authority). The duties of the board of directors of the authority are to help control, store, preserve, and distribute water of the Concho River and all the creeks that are in the district for municipal flood control, irrigation, power, and other useful purposes. The authority is also responsible for the reclamation of soil; however, the authority has not attempted to construct a major dam due to limited funds.

The authority has not been a viable entity for several years and its jurisdiction is now being controlled by other conservation districts throughout Concho County. The board members' terms have expired, no new names have been submitted for appointment, and the authority is not subject to Sunset review. This bill:

Abolishes the Lower Concho River Water and Soil Conservation Authority effective September 1, 2009.

Authority of Hospital Districts to Lease Property and Enter Joint Ventures—S.B. 1478

by Senator Carona—House Sponsor: Representative Vaught

Hospital districts in Texas are working to meet the challenge of providing quality health care services in a cost-effective manner. Previously passed legislation authorized hospital districts to use innovative methods to fund the district by maximizing available revenue generating options to avoid the need to seek additional public tax support for district operations. This bill:

Authorizes the board of hospital managers of a hospital district in a county with a population of 190,000 or more to lease undeveloped real property for up to 50 years with the approval of the commissioners court for the development and construction of facilities designed to generate revenue for the financial benefit of the district.

Authorizes the board, directly or through a nonprofit corporation, to contract or enter into a joint venture with a public or private entity as necessary to enter into a lease.

Sale of Property and Firefighting Equipment by Emergency Services Districts—S.B. 1485

by Senator Watson—House Sponsor: Representative Bolton

Currently, emergency services districts (ESDs) are required to dispose of used, surplus, or salvage property via competitive bid or auction, and there is no statutory exception from the requirement, even in connection with purchase by another district or volunteer fire department. This bill:

Authorizes an ESD to sell surplus firefighting equipment to any volunteer fire department or district in the state for fair market value if the equipment meets National Fire Protection Association Standards currently in effect or in effect when the equipment originally was purchased.

Authorizes a district to contract to supply surplus property to any such department or district at fair market value and to sell salvage property to any person in the state for fair market value or, if unable to do so, to destroy or otherwise dispose of the property as worthless.

Allows the district to determine the fair market value of surplus and salvage property.

Election of Directors of the Clearwater Underground Water Conservation District—S.B. 1755

by Senator Fraser—House Sponsor: Representative Sheffield

The Clearwater Underground Water Conservation District (district) was created by the 71st Legislature, Regular Session, 1989, and was confirmed by the voters of Bell County in 1999. The district is responsible for protecting and managing the groundwater resources within all of the territory of Bell County. The district is governed by and operates pursuant to the authority granted in Chapter 36 (Groundwater Conservation Districts), Water Code; Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution; and its enabling Act. This bill:

Moves the election date of the board of directors from the first Saturday in May to the uniform election date in November of even-numbered years.

Brush Country Groundwater Conservation District—S.B. 2456

by Senators Hinojosa and Zaffirini—House Sponsor: Representative Rios Ybarra

The Texas Constitution authorizes the creation of groundwater conservation districts to manage and conserve groundwater. This bill:

Creates the Brush Country Groundwater Conservation District (district), subject to voter approval at a confirmation election. Provides that the initial boundaries of the district include all of Jim Hogg County, and Brooks, Jim Wells, and Hildago counties except for the portions of those counties that are located within the Kenedy County Groundwater Conservation District.

Authorizes a person who owns a tract of land in Brooks County or Hidalgo County that adjoins the boundaries of the Kenedy County Groundwater Conservation District as of June 19, 2009, to petition that district for annexation. Provides that if the tract of land is annexed not later than January 1, 2010, it will be disannexed at that time from the Brush Country Groundwater Conservation District.

Grants the district general law powers and duties applicable to groundwater conservation districts, including the authorization to issue bonds and impose taxes, but limits the tax rate to an amount that does not exceed three cents on each \$100.

Prohibits the district from exercising the power of eminent domain.

Gives the district standard powers to exempt wells from permitting requirements. Applies special definitions for "domestic use" and "livestock use" for the purposes of applying those provisions to the district. Provides that provisions prohibiting a district from imposing more restrictive permit conditions on transporters of water out of the district than the district imposes on existing in-district users and provisions relating to certain permit periods and terms do not apply to the Brush Country Groundwater Conservation District.

Authorizes the district to impose a fee or surcharge as an export fee, but provides that provisions in the Water Code relating to methods of calculating such fees do not apply to the district.

Falcon's Lair Utility and Reclamation District—S.B. 2462

by Senator Carona—House Sponsor: Representative Driver

Located approximately 14 miles southeast of downtown Dallas and in the City of Mesquite, Falcon's Lair Utility and Reclamation District (district) was created in 1985 pursuant to special legislation enacted by H.B. 2198, 69th Legislature, Regular Session, 1985. This bill:

Authorizes the district board to securitize bonds with revenue from a tax increment fund. Provides that provisions of the Water Code relating to the authority of the Texas Commission on Environmental Quality (TCEQ) over the issuance of district bonds and TCEQ's supervision of district projects and improvements do not apply to bonds issued by the district and payable from certain assessments imposed by the district, to a project financed by such bonds, or to payments pursuant to an agreement under the Tax Increment Financing Act.

Validates and confirms any act or proceeding of the district taken before June 19, 2009, as of the date on which the act or proceeding occurred, excluding matters in litigation or invalidated by a final court judgment.

Comal County Water Improvement District No. 2—S.B. 2463

by Senator Wentworth—House Sponsor: Representative Doug Miller

A water district is a local governmental entity that provides limited services, such as water storage, supply, and conservation, to its customers and residents. Comal County Water Improvement District No. 2 (district) will encompass an area of land outside the corporate limits of any city and partially within the extraterritorial jurisdiction of the City of New Braunfels, Texas. This bill:

Creates the district subject to voter approval at a confirmation election.

Grants the district the general law powers and duties applicable to water control and improvement districts, including powers relating to sanitary sewer systems, and the power to issue bonds and impose taxes.

Authorizes the district to undertake certain road projects, but provides that bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

Prohibits the district from holding an election to authorize the issuance of bonds payable from property taxes to finance water and wastewater facilities to provide those services for uses other than the uses specified in the bill unless the applicable municipalities and land owners enter into a development agreement.

Prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility and imposes a limitation on the annexation of land outside the boundaries of the district.

Prohibits the district from developing the surface of any land in the district for purposes other than mining, quarrying, or water resource development, retention, and distribution with certain exceptions.

Comal County Water Improvement District No. 1—S.B. 2464

by Senator Wentworth—House Sponsor: Representative Doug Miller

A water district is a local governmental entity that provides limited services, such as water storage, supply, and conservation, to its customers and residents. Comal County Water Improvement District No. 1 (district) will encompass an area of land outside the corporate limits of any city and within the extraterritorial jurisdiction of the City of New Braunfels, Comal County, Texas. Water, sewer, drainage, and road services need to be secured in order to support the development of both single-family residential and commercial properties. This bill:

Creates the district, subject to voter approval at a confirmation election.

Grants the district the general law powers and duties applicable to water control and improvement districts, including powers relating to sanitary sewer systems, and the power to issue bonds and impose taxes.

Authorizes the district to undertake certain road projects, but bonds for road projects require approval by a two-thirds majority of those voting in a district election, and the bonds or other obligations for such projects may not exceed one-fourth of the assessed value of the real property in the district.

Prohibits the district from exercising the power of eminent domain outside its boundaries to acquire a site or an easement for an authorized road project or a recreational facility and imposes a limitation on the annexation of land outside the boundaries of the district.

Prohibits the district from constructing a water or wastewater facility unless any municipality in whose corporate limits or extraterritorial jurisdiction the facility is located at the time of construction has approved the plans and specifications of the facility.

Montgomery County Water Control and Improvement District No. 3—S.B. 2486

by Senator Williams—House Sponsor: Representative Eissler

The Townsen Bridge Development in Montgomery County is in need of an entity to own, operate, and construct drainage improvements in the development. This bill:

Creates the Montgomery County Water Control and Improvement District No. 3 (district), subject to voter approval at a confirmation election.

Grants the district the general-law powers applicable to water control and improvement districts, including the power to dispose of waste and control storm water.

Authorizes the district to impose taxes and issue bonds, including bonds for the development of recreational facilities, but prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a recreational facility.

Board of Directors of the Bee Groundwater Conservation District—S.B. 2495

by Senator Zaffirini—House Sponsor: Representative Gonzalez Toureilles

The Bee Groundwater Conservation District (district) was created in 1997 and is located wholly within the boundaries of Bee County, excluding the municipal boundaries of Beeville, the Pettus Municipal Utility District, and the Tynan Water Corporation service area. Groundwater conservation districts are constitutionally authorized to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions. These districts are the state's preferred method of groundwater management.

The enabling statute that created the district established seven directors to be elected under single-member districts and provided that a person must own land somewhere in the groundwater district in order to be eligible to serve as a director. However, there is no requirement that a director own land within the single-member district from which he or she is elected and serves. This bill would enable the district to achieve equal representation for the ranchers and farmers under the district's jurisdiction. This bill:

Requires a person to own land in the single-member district from which the person is elected to serve on the board of directors of the Bee Groundwater Conservation District.

Westchase District—S.B. 2496

by Senator Dan Patrick—House Sponsor: Representatives Hochberg and Thibault

The Westchase District (district) was one of the first management districts created in Texas. As management districts continued to be created, the legislation for those districts included authority and clarifying provisions that were not included in the district's legislation. S.B. 2496 updates the district's enabling legislation to include those provisions that are important for the district to compete with other management districts, including the authority to form nonprofit organizations and imposing certain assessments. This bill:

Provides that a parking improvement is considered to be a street or road improvement.

Provides that all or any part of the area of the district is eligible to be included in a tax increment reinvestment zone or an enterprise zone created by a municipality.

Provides that the district is a governmental unit under Chapter 101 (Tort Claims), Civil Practice and Remedies Code, and the operations of the district are essential government functions and are not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code.

Sets forth provisions relating to changes in the number of voting directors on the board of directors of the district (board) and to the determination of whether a quorum of the board is present.

Authorizes the board by resolution to authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

Authorizes the district to join and pay dues to an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3), (4), or (6) of that code and that performs a service or provides an activity consistent with the furtherance of a district purpose.

Authorizes the district to impose an assessment to pay the cost of burying or removing electrical power lines, telephone lines, cable or fiber-optic lines, or any other type of electrical or optical line; removing poles and any elevated lines using the poles; and reconnecting elevated lines to the buildings or other improvements to which the lines were connected.

Prohibits such an assessment from being imposed on the property, including the equipment, rights-of-way, easements, facilities, or improvements, of a telecommunications provider or a cable service provider or video service provider, unless the property is used as office space.

Authorizes the district to acquire, operate, or charge fees for the use of the district conduits for another person's telecommunications network, fiber-optic cable, or electronic transmission line, or any other type of transmission line or supporting facility.

Prohibits the district from requiring a person to use a district conduit.

North Texas Groundwater Conservation District—S.B. 2497

by Senators Estes and Shapiro—House Sponsor: Representative Hardcastle

Collin, Cooke, and Denton counties are included in the newly designated Priority Groundwater Management Area and desire to join together to form the North Texas Groundwater Conservation District (district). This bill:

Creates the district, subject to dissolution if not confirmed by voters before January 1, 2010.

Grants to the district the general-law powers and duties of a groundwater conservation district, except as otherwise provided in the bill.

Authorizes the district to assess a production fee based on the amount of groundwater authorized by permit to be withdrawn from certain wells that may not exceed \$1 per acre-foot annually for groundwater used for agricultural purposes or 30 cents per thousand gallons annually for groundwater used for nonagricultural purposes.

Sets out provisions relating to well spacing requirements and exemptions and authorizes the district to establish registration and reporting requirements for certain wells that are exempt from permitting under the Water Code, and to impose a fee in addition to the production fee for certain violations in lieu of or in addition to other available remedies.

Prohibits the district from issuing bonds, imposing a tax, and exercising the power of eminent domain.

Montgomery County Water Control and Improvement District No. 2—S.B. 2509

by Senator Williams—House Sponsor: Representative Eissler

It is necessary to create a water control and improvement district under Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code, in order to purchase, acquire, or construct facilities for such services to serve the future occupants of the land. This bill:

Creates the Montgomery County Water Control and Improvement District No. 2 (district), subject to voter approval at a confirmation election.

Grants the district the general-law powers applicable to water control and improvement districts, including the power to dispose of waste and control storm water.

Authorizes the district to impose taxes and issue bonds, including bonds for the development of recreational facilities, but prohibited from exercising the power of eminent domain outside the district to acquire a site or easement for a recreational facility.

McLennon County Groundwater Conservation District—S.B. 2513

by Senator Averitt—House Sponsor: Representative Dunnam

Certain counties wish to join the McLennon County Groundwater Conservation District, which requires certain changes to existing statute. This bill:

Changes the name of the McLennan County Groundwater Conservation District to the Southern Trinity Groundwater Conservation District (district) and to establishes that the district is located in a priority groundwater management area designated by the Texas Commission on Environmental Quality (TCEQ).

Extends the expiration date of temporary provisions relating to temporary directors and a district confirmation election from September 1, 2012, to December 31, 2013, and updates the terms of the temporary directors.

Authorizes the district to assess fees for services or production fees based on the amount of groundwater withdrawn from a well on a permit and establishes the authorized uses and limitations on the amount of the fees.

Prohibits TCEQ from creating, before September 1, 2011, a groundwater conservation district in the priority groundwater management area or adjacent to the priority groundwater management area in which the district is located.

North Fort Bend Water Authority—S.B. 2514

by Senator Hegar—House Sponsor: Representative Zerwas

The North Fort Bend Water Authority (authority) was created by the 79th Legislature in 2005, for the purpose of delivering surface water to users within its boundaries and groundwater reduction plan so that the users would be in compliance with Fort Bend Subsidence District regulations. These subsidence district regulations require users to convert from groundwater to surface water. There are over 50 water districts and one city within the boundaries of the authority.

In order to comply with the subsidence district groundwater reduction regulations, the authority is delivering surface water to dozens of wholesale water customers. Like other water authorities created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, the authority is governed by Chapter 49 (Provisions Applicable to All Districts), Water Code, as set forth in its enabling act. This bill:

Exempts the authority from provisions of the Water Code governing groundwater conservation districts, to authorize the district to sue certain entities for fees and other money owed to the district, including penalties, and to waive governmental immunity from suit or liability of a district or other political subdivision for the purpose of such an action.

Clear Creek Watershed Authority—S.B. 2519

by Senator Estes—House Sponsor: Representative Parker

Previous law provided that any property within the boundaries of the Clear Creek Watershed Authority (authority) that is annexed by a municipality is removed from the tax rolls of the authority. This bill:

Establishes that territory in the authority that is annexed on or after January 1, 2009, remains in the authority and is subject to authority taxes.

Exempts the authority from the imposition of property taxes by a county, municipality, school district, or other entity. Validates, ratifies, and confirms governmental acts and proceedings of the district taken before the effective date of the bill, excluding matters in litigation or invalidated by a final court judgment.

Board of Directors of the Santa Rita Underground Water Conservation District—S.B. 2520

by Senator Duncan—House Sponsor: Representative Heflin

The Santa Rita Underground Water Conservation District (district) was created by the legislature in 1989 to manage and conserve the groundwater resources of most of Reagan County. The district has identified revisions to be made to its enabling Act to update the process of director elections. This bill:

Requires a director to be a resident of the district.

Moves the election date for the directors to the uniform election date in May of each odd-numbered year.

Red River Groundwater Conservation District—S.B. 2529

by Senator Estes—House Sponsor: Representative Phillips

The Texas Commission on Environmental Quality (TCEQ) recently designated Fannin County and Grayson County as part of the North-Central Texas Trinity and Woodbine Aquifers Priority Groundwater Management Area (PGMA) pursuant to Chapter 35 (Groundwater Studies), Water Code. This PGMA designation indicates that the counties are currently experiencing or are expected to experience critical groundwater declines within the next 25 years and requires TCEQ to create a groundwater conservation district to include Fannin and Grayson counties unless the counties first create a district through the legislative process during the 81st Legislature. In response to the PGMA designation, Fannin and Grayson counties formed a steering committee comprised of local officials and representatives of water suppliers from both counties to work together to create a groundwater conservation district through the legislative process rather than waiting for TCEQ to create a potentially tax-based district whose territorial boundaries, administration, and management structure are currently unascertainable. This bill:

Creates the Red River Groundwater Conservation District (district), coextensive with the boundaries of Grayson and Fannin counties.

Grants the district general law powers and duties applicable to groundwater conservation districts, except as otherwise provided by the bill.

Prohibits the district from imposing a tax.

Authorizes the district to assess a production fee based on the amount of groundwater authorized by permit to be withdrawn from certain wells that may not exceed \$1 per acre-foot annually for groundwater used for agricultural purposes or 30 cents per 1,000 gallons annually for groundwater used for nonagricultural purposes.

Authorizes the district to impose an additional fee for a violation of district rules in lieu of or in addition to other available remedies, but that fee may not exceed an amount equal to 10 times the amount of the production fee.

Sets out standard provisions relating to well spacing requirements and the power to exempt wells from permitting requirements.

Prohibits the district from imposing more restrictive permit conditions on transporters of water out of the district than the district imposes on existing in-district users.

West Harris County Regional Water Authority—S.B. 2536

by Senator Dan Patrick—House Sponsor: Representative Callegari

The West Harris County Regional Water Authority (authority) was created by the legislature in 2001 for the purpose of delivering surface water to users within its boundaries and a groundwater reduction plan so that the users would be in compliance with Houston Galveston Subsidence District (subsidence district) regulations. These subsidence district regulations require users to convert from groundwater to surface water. There are over 120 water districts and one city within the boundaries of the authority.

In order to finance the water infrastructure needed to implement the surface water conversion, the authority charges surface water and/or groundwater pumpage fees to the entities within its boundaries and groundwater reduction plan. By implementing surface water conversion, the authority is providing necessary groundwater reduction plan services and compliance with subsidence district regulations for all of these entities. Collection of its fees is imperative for the authority to be able to construct, maintain, and finance its surface water infrastructure. This bill:

Specifies that general provisions for groundwater conservation districts, a provision relating to the disqualification of district directors, and provisions on district notices, reports, and bankruptcy do not apply to the authority.

Authorizes the authority to bring an action against a district, other political subdivision, or other person located in the authority's territory or included in the authority's groundwater reduction plan to recover certain damages or enforce an authority rule or order, and specifies that governmental immunity granted to such an entity is waived for the purposes of such an action.

Increased Membership on the Willacy County Navigation District Board—S.B. 2569

by Senator Lucio—House Sponsor: Representative Rios Ybarra

The Willacy County Navigation District (district) was created in 1948 to take advantage of the Port of Mansfield's location on the Laguna Madre Bay and the Gulf of Mexico.

The district has grown and now encompasses the communities of Port Mansfield, San Perlita, La Sara, and Raymondville. The district's functions and population has grown considerably, and the Commissioners Court of Willacy County has expressed interest in expanding the number of board members from three to five members to better represent the entirety of the district. This bill:

Requires the board of navigation and canal commissioners of the district (board), not later than June 1, 2010, to divide the territory of the district into four numbered single-member districts for electing commissioners.

Authorizes the board to revise the single-member districts as necessary or appropriate.

Provides that the board consists of five commissioners and that one commissioner is elected from each single-member district, and one commissioner is elected from the district at large.

Requires the board to hold an election to elect the appropriate number of commissioners on the uniform election date in November of each odd-numbered year.

Kenedy County Groundwater Conservation District Boundaries—S.B. 2570

by Senator Lucio—House Sponsor: Representative Rios Ybarra

Currently, the Kenedy County Groundwater Conservation District (district) is governed by a five-member board; four members elected from Kenedy county commissioners precincts and one elected from the boundaries of the Santa Gertrudis School District. As a result of expansion beyond Kenedy and Kleberg counties, the election boundaries of the five-member board need to be adjusted to accurately represent the current district boundaries. This bill:

Requires the board of directors (board) of the district, as soon as practicable after the effective date of the Act, to divide the district into five single-member districts for electing directors, assign each of the existing board positions to one of the new single-member districts, take into account when doing so the existing at-large board position elected by the voters of the Santa Gertrudis Independent School District, and draw the single-member district in a manner that retains the existing district lines as closely as possible.

Provides that if the district annexes territory, the annexed territory becomes part of one or more of the single-member districts as determined by the board.

Requires a person, to be a candidate for or to serve as a director, to be a registered voter in the single-member district the person represents or seeks to represent.

Authorizes the board, after each federal decennial census or as needed, to redraw the single-member districts to reflect population changes.

Requires a director in office on the effective date of a change in the boundaries of a single-member district, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, to serve for the remainder of the director's term in the single-member district to which elected or appointed even though the change in boundaries places the director's residence outside the district to which the director was elected or appointed.

Development, Improvement, and Management Districts

Sections 52 and 52A, Article III, and Section 59, Article XVI, Texas Constitution, authorize the funding for and the creation of districts for the purpose of economic development and improvement of public infrastructure. Counties and municipalities are authorized to create improvement, management, or development districts for various purposes and to issue bonds and impose taxes to fund such projects.

Chapter 372, Local Government Code, authorizes counties and municipalities to create and establish public improvement districts to provide for the construction or improvement of transportation routes and facilities, water and drainage facilities, libraries, parks, landscaping, among a number of other projects.

Chapter 375, Local Government Code, authorizes municipalities to create and establish municipal management districts for the purpose of promoting and maintaining economic development and public welfare in commercial areas. A municipal management district provides funding for traffic control, pedestrian facilities, public transportation, and landscaping, particularly to benefit commercial development and commercial areas.

Chapter 377, Local Government Code, authorizes a municipality to create and establish a municipal development district for the purpose of constructing, developing, or renovating public recreation or community facilities, such as a convention center, a civic center, or an auditorium.

Chapter 383, Local Government Code, authorizes a county to create and establish a county development district for the purpose of developing and diversifying the economy by providing incentives for the location and development of projects to attract visitors and tourists. Such projects may include projects related to recreational or community facilities, affordable housing, water supply facilities, and certain business enterprises.

Title 4 (Development and Improvement), Special District Local Laws Code, codifies the local session laws relating to the creation and governance of particular, individual development, improvement, and management districts.

During the 81st Legislative Session, the following development, improvement, and management districts were affected by legislation:

- Alden Lake Management District (H.B. 4775 by Representative Bonnen; Senate Sponsor: Senator Huffman)
- Aliana Management District (S.B. 1295 by Senator Hegar; House Sponsor: Representative Charlie Howard)
- Chambers County Improvement District No. 2 (S.B. 2511 by Senator Williams; House Sponsor: Representative Eiland)
- Chambers County Improvement District No. 3 (S.B. 2512 by Senator Williams; House Sponsor: Representative Eiland)
- Cibolo Creek Municipal Authority (H.B. 2906 by Representative Kuempel; Senate Sponsor: Senator Wentworth)
- Country Place Management District (S.B. 2479 by Senator Mike Jackson; House Sponsor: Representative Weber)
- Cypress Waters Municipal Management District (S.B. 2466 by Senator Harris; House Sponsor: Representative Jim Jackson)
- Driftwood Economic Development Municipal Management District (H.B. 4825 by Representative Rose; Senate Sponsor: Senator Wentworth)
- East Montgomery County Improvement District (S.B. 2453 by Senator Williams; House Sponsor: Representative Otto)
- Greater East End Management District (S.B. 2522 by Senator Gallegos; House Sponsor: Representative Alvarado)

- Guadalupe County Development and Management District (H.B. 4755 by Representative Kuempel; Senate Sponsor: Senator Wentworth)
- Harris County Improvement District No. 1 (S.B. 2552 by Senator Dan Patrick; House Sponsor: Representative Woolley)
- Harris County Improvement District No. 5 (H.B. 4771 by Representative Allen; Senate Sponsor: Senator Ellis)
- Harris County Improvement District No. 10 (H.B. 4795 by Representative Allen; Senate Sponsor: Senator Ellis)
- Harris County Improvement District No. 10B (H.B. 4795 by Representative Allen; Senate Sponsor: Senator Ellis)
- Harris County Improvement District No. 11 (H.B. 4722 by Representative Cohen; Senate Sponsor: Senator Ellis)
- Harris County Improvement District No. 12 (H.B. 4777 by Representative Edwards; Senate Sponsor: Senator Ellis)
- Harris County Improvement District No. 13 (S.B. 2473 by Senator Dan Patrick; House Sponsor: Representative Fletcher)
- Harris County Improvement District No. 14 (S.B. 2472 by Senator Dan Patrick; House Sponsor: Representative Fletcher)
- Harris County Improvement District No. 15 (S.B. 2531 by Senator Gallegos; House Sponsor: Representative Hernandez)
- Harris County Improvement District No. 16 (S.B. 2507 by Senator Mike Jackson; House Sponsor: Representative Legler)
- Harris County Improvement District No. 17 (H.B. 4829 by Representative Fletcher; Senate Sponsor: Senator Dan Patrick)
- Harris County Improvement District No. 18 (S.B. 2510 by Senator Dan Patrick; House Sponsor: Representative Riddle)
- Harris County Improvement District No. 20 (H.B. 4827 by Representative Coleman; Senate Sponsor: Senator Ellis)
- Harris County Improvement District No. 21 (H.B. 4828 by Representative Coleman; Senate Sponsor: Senator Ellis)
- Kaufman County Parks Improvement District (H.B. 4789 by Representative Betty Brown; Senate Sponsor: Senator Deuell)
- Kaufman County Water Control and Improvement District No. 1 (S.B. 2413 by Senator Deuell; House Sponsor: Representative Betty Brown)
- Kennedale TownCenter Development District (H.B. 1300 by Representative Chris Turner; Senate Sponsor: Senator Wendy Davis)
- Lake View Management and Development District (S.B. 2503 by Senator Nichols; House Sponsor: Representative Betty Brown)
- League City Improvement District (H.B. 4798 by Representative Taylor; Senate Sponsor: Senator Mike Jackson)
- Maverick Improvement District of Palo Pinto County (S.B. 2470 by Senator Estes; House Sponsor: Representative Keffer)
- North Oak Cliff Municipal Management District (S.B. 2501 by Senator West; House Sponsor: Representative Alonzo)
- Padre Island Gateway Municipal Management District (S.B. 2550 by Senator Hinojosa; House Sponsor: Representative Hancock)
- Prosper Management District No. 1 (H.B. 4752 by Representative Parker; Senate Sponsor: Senator Estes)
- Red River Redevelopment Authority (H.B. 3802 by Representative Frost; Senate Sponsor: Senator Eltife)
- Sienna Plantation Management District (H.B. 4727 by Representative Olivo; Senate Sponsor: Senator Huffman)

- Tornillo Management District (H.B. 4759 by Representative Quintanilla; Senate Sponsor: Senator Uresti)
- Travis County Improvement District No. 1 (S.B. 2526 by Senator Watson; House Sponsor: Representative Bolton)
- Trinity River West Municipal Management District (H.B. 4720 by Representative Anchia; Senate Sponsor: Senator West)
- Waller Town Center Management District (S.B. 2467 by Senators Dan Patrick and Hegar; House Sponsor: Representative Fletcher)

Hospital Districts

Sections 9, 9A, and 9B, Article IX, Texas Constitution, authorize the Texas Legislature to provide for the creation, establishment, operation, and maintenance of hospital districts. The constitution requires that hospital districts assume full responsibility for providing medical and hospital care for the needy inhabitants of the district.

Chapter 286 (Hospital Districts Created by Voter Approval), Health and Safety Code, sets forth the actual procedures for the creation and establishment of hospital districts, as well as the governance, structure, and powers of those districts.

Subtitle A (Hospital Districts), Title 3 (Health), Special District Local Laws Code, codifies the local session laws relating to the creation and governance of particular, individual hospital districts.

During the 81st Legislative Session, the following hospital districts were affected by legislation:

- Ballinger Memorial Hospital District (S.B. 2517 by Senator Duncan; House Sponsor: Representative Hilderbran)
- Dallas County Hospital District (S.B. 1705 by Senator West; House Sponsor: Representative Pitts)
- Ector County Hospital District (H.B. 473 by Representative Lewis; Senate Sponsor: Senator Seliger)
- El Paso County Hospital District (S.B. 534 by Senator Shapleigh; House Sponsor: Representative Chavez)
- Electra Hospital District (H.B. 781 by Representative Farabee; Senate Sponsor: Senator Estes)
- Gonzales Healthcare Systems (H.B. 694 by Representative Kuempel; Senate Sponsor: Senator Hegar)
- Hardeman County Hospital District (H.B. 4007 by Representative Hardcastle; Senate Sponsor: Senator Duncan)
- Hopkins County Hospital District (H.B. 4139 by Representative Homer; Senate Sponsor: Senator Deuell)
- Karnes County Hospital District (H.B. 2708 by Representative Gonzalez Toureilles; Senate Sponsor: Senator Zaffirini)
- Lockney General Hospital District (H.B. 4745 by Representative Heflin; Senate Sponsor: Senator Duncan)
- Lynn County Hospital District (S.B. 524 by Senator Duncan; House Sponsor: Representative Heflin)
- Martin County Hospital District (H.B. 4730 by Representative Craddick; Senate Sponsor: Senator Seliger)
- Matagorda County Hospital District (S.B. 1712 by Senator Hegar; House Sponsor: Representative Weber)
- Montgomery County Hospital District (H.B. 1517 by Representative Eissler; Senate Sponsor: Senator Nichols)
- Muenster Hospital District (H.B. 1686 by Representative Hardcastle; Senate Sponsor: Senator Estes)
- North Runnels County Hospital District (S.B. 2517 by Senator Duncan; House Sponsor: Representative Hilderbran)
- North Wheeler County Hospital District (S.B. 2093 by Senator Duncan; House Sponsor: Representative Chisum)
- Reagan Hospital District (H.B. 2994 by Representative Heflin; Senate Sponsor: Senator Duncan)
- Runnels County Hospital District (S.B. 2517 by Senator Duncan; House Sponsor: Representative Hilderbran)
- Starr County Hospital District (H.B. 4704 by Representative Guillen; Senate Sponsor: Senator Zaffirini)
- Sutton County Hospital District (H.B. 4257 by Representative Hilderbran; Senate Sponsor: Senator Uresti)
- Sweeny Hospital District (H.B. 878 by Representative Bonnen; Senate Sponsor: Senator Huffman)

Municipal and Special Utility Districts and Groundwater Conservation Districts

Section 59, Article XVI, Texas Constitution, declares the conservation and development of all of the natural resources of this state and the development of parks and recreational facilities to be public rights and duties.

Chapter 54 (Municipal Utility Districts), Water Code, authorizes the creation of municipal utility districts (MUDs) under and subject to the authority, conditions, and restrictions of Section 59, Article XVI. Chapter 54 also lists the purposes for which a MUD may be created, including the control, storage, preservation, and distribution of storm water, flood water, river water, and stream water for irrigation, power, and all other useful purposes; the reclamation and irrigation of its arid, semiarid, and other land needing irrigation; the reclamation and drainage of its overflowed land and other land needing drainage; the conservation and development of its forests, water, and hydroelectric power; the navigation of its inland and coastal water; the control, abatement, and change of any shortage or harmful excess of water; the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and the preservation of all natural resources of the state.

Chapter 65 (Special Utility Districts), Water Code, authorizes the creation of special utility districts (SUDs) under and subject to the authority, conditions, and restrictions of Section 59, Article XVI. It also provides that an SUD is considered a conservation and reclamation district under the section of the constitution. Chapter 65 further provides that SUDs are created to purchase, own, hold, lease, and otherwise acquire sources of water supply; to build, operate, and maintain facilities for the transportation of water; and to sell water to towns, cities, and other political subdivisions of this state, to private business entities, and to individuals; for the establishment, operation, and maintenance of fire-fighting facilities to perform all fire-fighting activities within the district; or for the protection, preservation, and restoration of the purity and sanitary condition of water within the district.

Chapter 36 (Groundwater Conservation Districts), Water Code, authorizes the creation of groundwater conservation districts, including subsidence districts that are considered to be conservation and reclamation districts under Section 59, Article XVI. Chapter 36 defines "subsidence" as the lowering in elevation of the land surface caused by withdrawal of groundwater. The purpose of a subsidence district is to provide for the regulation of groundwater withdrawal to end subsidence, which contributes to or precipitates flooding or overflow of water in the district, including rising water resulting from a storm or hurricane.

Title 6 (Water and Wastewater), Special District Local Laws Code, codifies the local session laws relating to the creation and governance of particular, individual MUDs, SUDs, and groundwater conservation districts.

During the 81st Legislative Session, the following MUDs, SUDs, and groundwater conservation districts were affected by legislation:

- 3 B&J MUD (H.B. 4779 by Representative Gattis; Senate Sponsor: Senator Ogden)
- Bastrop County MUD No. 2 (H.B. 4772 by Representative Kleinschmidt; Senate Sponsor: Senator Hegar)
- Bayview MUD (H.B. 4723 by Representative Taylor; Senate Sponsor: Senator Hegar)
- Blaketree MUD No. 1 (S.B. 1979 by Senator Nichols; House Sponsor: Representative Creighton)
- Brazoria County MUD No. 63 (S.B. 2521 by Senator Mike Jackson; House Sponsor: Representative Weber)
- Brazoria County MUD No. 64 (H.B. 1946 by Representative Bonnen; Senate Sponsor: Senator Huffman)
- Brazoria County MUD No. 65 (S.B. 2460 by Senator Mike Jackson; House Sponsor: Representative Weber)
- Brown's Ranch MUD No. 1 of Grayson County (H.B. 4790 by Representative Phillips; Senate Sponsor: Senator Estes)
- Burnet County MUD No. 3 (H.B. 4719 by Representative Aycock; Senate Sponsor: Senator Fraser)
- Caldwell County MUD No. 1 (S.B. 660 by Senator Hegar; House Sponsor: Representative Rose)
- Clearwater Ranch MUD No. 1 (H.B. 4710 by Representative Aycock; Senate Sponsor: Senator Fraser)
- Collin County MUD No. 1 (H.B. 4712 by Representative Laubenberg; Senate Sponsor: Senator Estes)

- Dallas County Utility and Reclamation District (H.B. 4818 by Representative Harper-Brown; Senate Sponsor: Senator West)
- East Montgomery County MUD No. 8 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- East Montgomery County MUD No. 9 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- East Montgomery County MUD No. 10 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- East Montgomery County MUD No. 11 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- East Montgomery County MUD No. 12 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- East Montgomery County MUD No. 13 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- East Montgomery County MUD No. 14 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- Fort Bend County MUD No. 161 (S.B. 748 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County MUD No. 163 (S.B. 749 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County MUD No. 192 (S.B. 994 by Senator Hegar; House Sponsor: Representative Olivo)
- Fort Bend County MUD No. 194 (H.B. 1113 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- Fort Bend County MUD No. 200 (S.B. 880 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County MUD No. 201 (H.B. 1600 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- Fort Bend County MUD No. 202 (H.B. 1597 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- Fort Bend County MUD No. 203 (H.B. 1598 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- Fort Bend County MUD No. 204 (H.B. 1596 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- Fort Bend-Waller Counties MUD No. 2 (S.B. 860 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend Subsidence District (S.B. 2543 by Senator Hegar; House Sponsor: Representative Callegari)
- Galveston County MUD No. 76 (S.B. 1483 by Senator Huffman; House Sponsor: Representative Eiland)
- Goodwater MUD No. 1 (H.B. 4817 by Representative Gattis; Senate Sponsor: Senator Ogden)
- Gray County MUD No. 1 (S.B. 2506 by Senator Duncan; House Sponsor: Representative Chisum)
- Guadalupe County MUD No. 3 (H.B. 4754 by Representative Kuempel; Senate Sponsor: Senator Wentworth)
- Harris County MUD No. 403 (H.B. 2102 by Representative Dutton; Senate Sponsor: Senator Whitmire)
- Harris County MUD No. 478 (S.B. 1039 by Senator Dan Patrick; House Sponsor: Representative Fletcher)
- Harris County MUD No. 495 (S.B. 2455 by Senator Dan Patrick; House Sponsor: Representative Creighton)
- Harris County MUD No. 525 (S.B. 1464 by Senator Williams; House Sponsor: Representative Creighton)
- Harris-Galveston Subsidence District (S.B. 2543 by Senator Hegar; House Sponsor: Representative Callegari)
- Harris-Montgomery Counties MUD No. 386 (S.B. 2483 by Senator Williams; House Sponsor: Representative Eissler)
- Hood County Granbury MUD No. 1 (H.B. 2035 by Representative Keffer; Senate Sponsor: Senator Averitt)
- Lake Texoma MUD No. 1 (H.B. 4737 by Representative Phillips; Senate Sponsor: Senator Estes)
- Lake Weatherford MUD No. 1 (H.B. 4698 by Representative Phil King; Senate Sponsor: Senator Estes)
- Lake Weatherford MUD No. 2 (H.B. 4698 by Representative Phil King; Senate Sponsor: Senator Estes)
- Las Lomas MUD No. 3 of Kaufman County (S.B. 2412 by Senator Deuell; House Sponsor: Representative Betty Brown)
- Las Lomas MUD No. 4 of Kaufman County (S.B. 2412 by Senator Deuell; House Sponsor: Representative Betty Brown)

- Liberty County MUD No. 5 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- Liberty County MUD No. 6 (S.B. 2524 by Senator Williams; House Sponsor: Representative Otto)
- Montgomery County MUD No. 100 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- Montgomery County MUD No. 101 (H.B. 4715 by Representative Creighton; Senate Sponsor: Senator Williams)
- Montgomery County MUD No. 118 (S.B. 2485 by Senator Williams; House Sponsor: Representative Eissler)
- Montgomery County MUD No. 128 (S.B. 2504 by Senator Nichols; House Sponsor: Representative Creighton)
- Montgomery County MUD No. 129 (S.B. 2504 by Senator Nichols; House Sponsor: Representative Creighton)
- Northampton MUD (S.B. 1038 by Senator Dan Patrick; House Sponsor: Representative Riddle)
- Northwest Williamson County MUD No. 1 (H.B. 4778 by Representative Gattis; Senate Sponsor: Senator Ogden)
- Parker County Utility District No. 1 (H.B. 4728 by Representative Phil King; Senate Sponsor: Senator Estes)
- Parklands MUD No. 1 (S.B. 2478 by Senator Wentworth; House Sponsor: Representative Rose)
- Ranch at Cypress Creek MUD No. 1 (H.B. 4815 by Representative Gattis; Senate Sponsor: Senator Ogden)
- San Gabriel MUD No. 1 (H.B. 4800 by Representative Gattis; Senate Sponsor: Senator Ogden)
- Sedona Lakes MUD No. 1 of Brazoria County (H.B. 2022 by Representative Weber; Senate Sponsor: Senator Hegar)
- Seven Oaks Ranch MUD (H.B. 4799 by Representatives Gattis and Maldonado; Senate Sponsor: Senator Ogden)
- Sienna Plantation MUD No. 4 (S.B. 929 by Senator Huffman; House Sponsor: Representative Olivo)
- Sienna Plantation MUD No. 5 (S.B. 930 by Senator Huffman; House Sponsor: Representative Olivo)
- Sienna Plantation MUD No. 6 (S.B. 931 by Senator Huffman; House Sponsor: Representative Olivo)
- Sienna Plantation MUD No. 7 (S.B. 932 by Senator Huffman; House Sponsor: Representative Olivo)
- Somerset MUD No. 3 (S.B. 2518 by Senator Nichols; House Sponsor: Representative McReynolds)
- South Fork Ranch MUD (H.B. 4803 by Representative Maldonado; Senate Sponsor: Senator Ogden)
- Twin Lakes MUD No. 1 (S.B. 2410 by Senator Deuell; House Sponsor: Representative Betty Brown)
- Van Alstyne MUD No. 1 of Grayson County (S.B. 1337 by Senator Estes; House Sponsor: Representative Phillips)
- Waller County MUD No. 9 (S.B. 588 by Senator Hegar; House Sponsor: Representative Zerwas)
- Waller County MUD No. 13 (H.B. 1601 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- Waller County MUD No. 14 (H.B. 1691 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- Waller County MUD No. 15 (H.B. 1599 by Representative Zerwas; Senate Sponsor: Senator Hegar)
- Williamson County MUD No. 21 (H.B. 4748 by Representative Gattis; Senate Sponsor: Senator Ogden)
- XS Ranch MUD (H.B. 1841 by Representative Kleinschmidt; Senate Sponsor: Senator Hegar)

Restraint of Dogs in Certain Areas—H.B. 205

by Representative Aycock—Senate Sponsor: Senator Estes

Currently, the Agriculture Code limits the applicability of city ordinances to existing agricultural operations annexed or otherwise brought into the corporate limits of the municipality, unless the city's governing body makes a determination that the requirements are necessary to protect public health and safety. This bill:

Provides that a municipal governmental requirement relating to the restraint of a dog that would apply to an agricultural operation under Section 251.005(c) (relating to the necessity to protect persons who reside in the immediate vicinity of the agricultural operation) does not apply to a dog used to protect livestock on property controlled by the property owner while the dog is being used on such property for that purpose.

Meetings of County Bail Bond Boards in Certain Counties—H.B. 383

by Representative Heflin—Senate Sponsor: Senator Seliger

Current law requires county bail bond boards to meet at least once a month or at other times at the call of the presiding officer. This requirement may be burdensome or unnecessary for bail bond boards in smaller counties. This bill:

Requires that a county bail bond board in a county with a population of less than 50,000 meet at least four times each year during the months of January, April, July, and October at the call of the presiding officer.

Scurry County Authorized to Impose Hotel Occupancy Tax—H.B. 749

by Representative Darby—Senate Sponsor: Senator Duncan

The Tax Code allows certain counties to impose a hotel occupancy tax to provide funding for certain purposes. This bill:

Authorizes Scurry County to impose a hotel occupancy tax not to exceed two percent of the price paid for a room in a hotel, the revenue of which may only be used to operate and maintain a coliseum in the county.

County Participation in Programs to Assist Municipalities—H.B. 807

by Representative Gallego—Senate Sponsor: Senator Uresti

Current law limits the counties that are eligible to participate in any federal or state program that provides grants, loans, or other assistance to municipalities to those counties with a population of more than 5,000 that are located within 100 miles of an international boundary, that have no incorporated territory, and that have the power to enact ordinances. H.B. 807 expands these limits to allow other counties to participate in such funding measures. This bill:

Provides that a county that contains no incorporated territory of a municipality is eligible to apply on behalf of locations in the county that are census designated places as if the places were municipalities for the purpose of participating in any federal or state program that provides grants, loans, or other assistance to municipalities.

License or Certificate Renewal for EMS Personnel and Law Enforcement Officers—H.B. 846

by Representatives "Mando" Martinez and Riddle—Senate Sponsor: Senator Gallegos

Current law requires emergency medical service providers and certain law enforcement officers to obtain a certificate or license before serving in their official capacity that are only valid for a certain period of time. To renew a certificate or license, an emergency service provide or law enforcement officer must submit a renewal application that requires including certain information that has previously been provided to the state. This bill:

Provides that an application for renewal of a certificate or license to practice as an emergency medical services personnel or a law enforcement officer may not require the applicant to provide unchanged criminal history information and may require the applicant to provide only information relevant to the period occurring since the date of the applicant's last application or renewal application.

Competitive Procurement Requirements of Local Governmental Entities—H.B. 987

by Representative Creighton—Senate Sponsor: Senator West

Political subdivisions and local governments, such as school districts and counties, are required to submit contracts of more than \$25,000 to competitive bidding. Municipalities, however, are required to submit contracts of more than \$50,000 to competitive bidding. This bill:

Requires school districts and counties, among other governmental entities, to submit contracts of more than \$50,000 to competitive procurement, rather than competitive bidding.

Authorizes school district to receive bids or proposals through electronic transmission under certain conditions.

Emergency Vehicle Access to Gated Communities—H.B. 1063

by Representative Farias—Senate Sponsor: Senator Wentworth

Fire departments have often experienced difficulty entering gated communities when responding to emergency situations. This bill:

Authorizes the commissioners court of a county to require by order that each electric gate to a gated community or multiunit housing project be equipped with a gate-operating device that is approved by the county fire marshal or other similar authority having jurisdiction over fire prevention and will activate the electric gate on the sounding of an emergency vehicle siren.

Counting of Work Hours for Certain Fire Fighters—H.B. 1146

by Representative Anchia et al.—Senate Sponsor: Senator West

Current law includes fire fighters in application of the overtime policy of other municipal employees; however, the work hours of fire fighters are much different than the work hours of other municipal employees. This bill:

Provides that, in a municipality with a population of one million or more, all hours are counted as hours worked during which the fire fighter or member of the fire department is required to remain available for immediate call to duty by continuously remaining in contact with the fire department office by telephone, pager, or radio, or is taking any authorized leave, including attendance incentive leave, vacation leave, holiday leave, compensatory time off, jury duty, military leave, or leave because of a death in the family.

Liability of Municipality for Sanitary Sewer System Backup—H.B. 1174

by Representative Hartnett—Senate Sponsor: Senator Watson

The operation of sanitary sewer systems may be seen as a governmental function of a municipality. When a sanitary sewer system backs up, it can cause substantial damage to private property; however, municipalities generally do not accept liability for the damage, and therefore, do not reimburse property owners for the costs associated with cleanup and repair. This bill:

Authorizes a municipality or a river authority to pay actual property damages caused by the backup of the municipality's or river authority's sanitary sewer system regardless of whether the municipality or river authority would be liable for damages under Chapter 101, Civil Practice and Remedies Code.

Provides that this section does not waive governmental immunity from suit or liability.

Provides that this section does not apply to the Trinity River Authority, the San Jacinto River Authority, the Sabine River Authority, or the Lower Neches Valley River Authority.

Legislative Leave for Certain Peace Officers and Fire Fighters—H.B. 1177

by Representatives Guillen and Flores—Senate Sponsor: Senator Zaffirini

Current law entitles peace officers and fire fighters employed by the state, a municipality with a population of 200,000 or more, or a county with a population of 500,000 or more, to legislative leave to serve in, appear before, or petition a governmental body during a regular or special session of the Texas Legislature. This bill:

Expands this entitlement of legislative leave to include peace officer and fire fighters employed by a municipality with a population of 50,000 or more and a county with a population of 190,000 or more.

Compensation of County Auditors—H.B. 1230

by Representative Farabee—Senate Sponsor: Senator Harris

Current law prohibits the amount of the compensation and allowances of a county auditor from exceeding the amount of the compensation and allowances received from all sources by the highest paid elected county officer, other than a judge of a statutory county court, whose salary and allowances are set by the commissioners court. However, the statute authorizes the compensation and allowances of a county auditor in a county with a population of 500,000 or more to be set in an amount that exceeds those limits if the compensation and allowances are approved by the commissioners court of the county. Smaller counties may have difficulty recruiting and maintaining accountants to fulfill the position of county auditor due to the statutory limits on salary. This bill:

Authorizes the compensation and allowances of a county auditor in a county with a population of 120,000 or more to be set in an amount that exceeds certain limits if the compensation and allowances are approved by the commissioners court of the county.

Post-Disaster Food Bank and Pantry Supply Replenishment—H.B. 1326

by Representative Ybarra—Senate Sponsor: Senator Lucio

Many food banks along the Texas Gulf Coast were depleted after the hurricanes in 2008. When Hurricane Dolly hit South Texas, the supplies in the Rio Grande Valley food banks diminished quickly because of the storm's severity.

Food banks and pantries in the Houston area passed along most of their food supplies to assist their neighbors in South Texas.

A short time later, Houston was hit by Hurricane Ike, which left most of its food banks and pantries greatly depleted. The lack of supplies broadened the emergency response services after the disaster, as the Federal Emergency Management Agency took a large amount of time to replenish these supplies. This bill:

Requires the division of emergency management in the office of the governor to prepare and keep current a comprehensive state emergency management plan.

Authorizes that the plan include certain provisions, including provisions for quickly replenishing the food supplies of area food banks or food pantries following a disaster.

Requirements of Plats Affecting a Subdivision Golf Course—H.B. 1473

by Representative Geren—Senate Sponsor: Senator Nelson

The governing bodies of municipalities are given general authority to adopt rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality after a public hearing on the matter. The Local Government Code sets forth certain requirements relating to the approval of a proposed new plat if any of the area subject to the new plat is a subdivision golf course. This bill:

Limits application of the requirements relating to certain plats affecting a subdivision golf course to land located wholly or partly in the corporate boundaries of a municipality if the municipality has a population of more than 50,000 and is located wholly or partly in a county with a population of more than three million, a county with a population of more than 275,000 that is adjacent to a county with a population of more than three million, or a county with a population of more than 1.4 million in which two or more municipalities with a population of 300,000 or more are located and that is adjacent to a county with population of more than two million.

Flood Water Removal Following a Natural Disaster—H.B. 1579

by Representatives Gonzales and "Mando" Martinez—Senate Sponsor: Lucio

In the summer of 2008, parts of Hidalgo County suffered immense flooding during and after Hurricane Dolly. The flooding affected some of the poorest areas of the county, including several colonias, where residents experienced high water levels in their homes and on their roads for several weeks after the storm damaging residents' homes and properties and creating unsafe roads and unsanitary conditions because of large amounts of stagnant water providing a breeding ground for disease-carrying mosquitoes. This bill:

Authorizes a county to provide assistance for the removal from private property, including a road, of flood water resulting from a natural disaster in a colonia if the removal of the water is necessary to protect the health and safety of the colonia.

Regulation of Mobile Food Units in Certain Municipalities—H.B. 1802

by Representative Bohac—Senate Sponsor: Senator Ellis

Currently, mobile food vendors are not regulated by the municipalities in which they operate. This bill:

Requires any person desiring to operate one or more mobile food units in a municipality with a population of 1.5 million or more to obtain an individual medallion issued by the health officer of the municipality only after an inspection and satisfactory compliance with certain provisions in statute.

Disposition of Cash in Possession of a Deceased Pauper—H.B. 1843

by Representative John Davis—Senate Sponsor: Senator Dan Patrick

Current law requires that the commissioners court of a county provide for the disposition of the body of a deceased pauper. Generally, when a body is brought to the morgue, the medical examiner will identify the person who has the right to control disposition of the body and any property found on the body. If no such person is identified, any property found on the body is held by the medical examiner's office for three years, at which time it escheats to the state. This leaves the county responsible for paying any burial costs of a deceased pauper. Harris County estimates that, on average, the amount of cash found on bodies of paupers that were buried was less than \$100. This bill:

Authorizes a county that discovers cash in the possession of a deceased pauper to use the cash to pay the actual costs incurred in disposing of the pauper's body.

Requires the county to place any remaining cash in a trust for a year to allow a person with claim to the money to exercise the right to collect the money.

Authorizes the county to create a fund to be used to pay certain costs incurred in body disposition activities and to transfer unclaimed money in a trust to the fund.

Voluntary Assessments to Finance Energy Conservation Improvements—H.B. 1937

by Representative Villarreal et al.—Senate Sponsor: Senator Seliger

Several states across the country have authorized cities to designate areas within which property owners could enter into contractual assessments to finance energy efficiency improvements or the installation of renewable energy devices on their homes. This bill:

Authorizes a municipality to impose an assessment with the consent of the owner of the assessed property to finance energy efficiency public improvements to developed lots and the installation of distributed generation renewable energy sources or energy efficiency improvement permanently fixed to residential, commercial, industrial, or other real property.

Payment to Certain Peace Officers and Fire Fighters for Appearance as Witness—H.B. 1960

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

Current law requires municipalities to pay a fire fighter or police officer for an appearance as a witness in a criminal suit or a civil suit in which the municipality or other political subject is a party in interest under certain circumstances. This bill:

Includes an administrative proceeding to the list of appearances for which a municipality is required to pay a fire fighter or police office for appearing as a witness.

Requires a county to pay a peace officer employed by the county for an appearance as a witness in a criminal suit, a civil suit, or an administrative proceeding in which the county or other political subdivision or government agency is a party in interest under certain circumstances.

Limitation on Contracts by Certain Municipalities With Local Businesses—H.B. 2082

by Representative Isett—Senate Sponsor: Senator Duncan

Current law authorizes certain municipalities to award contracts to local businesses that bid within five percent of the lowest bid price received by the municipality from a bidder who is not a local business. However, the law does not set a maximum amount for such contracts. This bill:

Limits the amount of a contract entered into by municipalities with a population of less than 250,000 to purchase real property or personal property that is not affixed to real property to less than \$100,000.

Sheriff's Department Civil Service Commission Appeals of Disciplinary Actions—H.B. 2168

by Representative Chavez et al.—Senate Sponsor: Senator Watson

There are reports that some sheriff's department civil service commissions (commission) have threatened to imposed harsher punishments on employees appealing disciplinary actions. This bill:

Limits a commission, when rendering a final decision regarding a disciplinary action, to sustaining, overturning, or reducing the disciplinary action.

Prohibits a commission from enhancing a disciplinary action.

Creation of the Task Force on Uniform County Subdivision Regulation—H.B. 2275

by Representative Raymond et al.—Senate Sponsor: Senator Zaffirini

Since 1989, the legislature enacted several forms of legislation regulating colonias in border and economically distressed counties. Originally, uniform laws were enacted for both border counties and economically distressed counties. However, in 1995, the 74th Legislature, Regular Session, enacted provisions applicable only to border counties that tightened restrictions on existing colonias and prohibited the sale of any residential lot without adequate water and sewer facilities.

In addition, various funding programs were created to address inadequate water and wastewater facilities, drainage, and housing to bring existing colonias into compliance with model rules and current platting laws. Counties that seek funding assistance under these programs are required to adopt and enforce the colonia regulations, specifically, the model rules. Due to differences in legislation of colonias in border and economically distressed counties, border counties are held to a higher level of compliance when competing for the same funding dollars. A task force is needed to examine and rectify those differences and work toward solutions. This bill:

Sets forth the requirements for appointment to, and composition of, the task force on uniform county subdivision regulation.

Requires the task force to research and identify the conflicts and deficiencies in current law regarding the regulation of the development of subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties, and develop recommendations and draft a proposal for legislation to create uniform standards for the regulation of the development of subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties.

Requires the task force, not later than December 1, 2010, to submit its findings, recommendations, and proposal for legislation to the standing committees of the senate and house of representatives having primary jurisdiction over border regions or county affairs.

Provides that the task force is abolished and this Act expires on September 2, 2011.

Firefighters and Police Officers Covered Under Meet and Confer Agreement—H.B. 2307

by Representative Yvonne Davis—Senate Sponsor: Senator Deuell

H.B. 866, 80th Legislature, Regular Session, 2007, granted cities with a population of one million or more, such as the City of Dallas, the ability to meet and confer with firefighters and police officers to negotiate their terms of employment. H.B. 2307 is intended to address issues overlooked in the enabling legislation. This bill:

Redefines "firefighter" and "police officer" to be employed by the municipality's respective pension plan and classified by the municipality as nonexempt, rather than exempt.

Redefines "firefighter employee group" and "police officer employee group" to mean an organization in which a certain amount of the respective employees have participated and paid dues via automatic payroll deduction on or before September 1, 2007, rather than for at least one year.

Lease of Oil, Gas, or Mineral Land in Public Areas Owned by a Municipality—H.B. 2333

by Representative Geren—Senate Sponsor: Senator Wendy Davis

Current law authorizes a municipality to lease oil, gas, or mineral land owned by the municipality for the benefit of the municipality; however, the statute prohibits the municipality from leasing a street, alley, or public square for such purposes to prevent the disturbance of the use of streets and public areas. Current technology in oil and gas drilling, however, allows access to such minerals without harming the surface of the land in public areas by drilling horizontally or from a remote surface location. This bill:

Authorizes a municipality to lease a street, alley, or public square in the municipality if the lease prohibits the lessee from using the surface of the land for drilling, production, or other operations.

Amendments to Urban Land Bank Demonstration Programs—H.B. 2344

by Representatives Giddings and Yvonne Davis—Senate Sponsor: Senator West

Current law authorizes certain municipalities to adopt an urban land bank demonstration program in which real property ordered sold pursuant to foreclosure of a tax lien is sold to the land bank for purposes of affordable housing development. This bill:

Sets forth zoning requirements of the land sold to a land bank.

Sets forth conditions relating to the resale of land acquired by a land bank, including requiring the land bank to sell the property within four years of acquiring it.

Authorizes the land bank to permit a qualified participating developer to exchange property purchase from the land bank with any other property owned by the developer under certain conditions.

Requires the land bank, if the land bank determines that property owned by the land bank is not appropriate for residential development, to first offer the property for sale to an eligible adjacent property owner under certain conditions.

Agreements to Provide Fire-Fighting Services—H.B. 2348

by Representatives Dutton and Flynn—Senate Sponsor: Senator Whitmire

Current law authorizes water districts to contract with other districts or entities to provide fire-fighting services within the district. This bill:

Authorizes a district located wholly or partly in a county with a population of more than 3.3 million and in whose territory an emergency services district that provides fire-fighting services to all or part of the district is wholly or partly located to contract with a municipality without the authorization of the emergency services district to provide fire-fighting services.

Provides that the property annexed by the municipality for the limited purpose of providing fire-fighting services is disannexed from the emergency services district.

Limits application of these provisions to agreements entered into or amended after December 31, 2006.

Payment Bonds for Certain Public Work Contracts—H.B. 2515

by Representative Todd Smith—Senate Sponsor: Senator Harris

Current law requires a governmental entity entering into a public work contract with a prime contractor to require the contractor to execute a performance bond if the contract is in excess of \$100,000 and a payment bond if the contract is in excess of \$25,000. This bill:

Requires a contractor to execute a payment bond if the contract is in excess of \$50,000 and the governmental entity is a municipality or a certain joint board.

Authority of County Commissioners Courts to Require Address Number Signs—H.B. 2665

By Representative Ritter—Senate Sponsor: Senator Williams

Emergency responders in rural areas often have difficulty locating their destination due to a lack of visible address numbers. This can prevent them from providing necessary services in a timely manner. This bill:

Authorizes the commissioners court of a county to adopt standards and specifications for the design and installation of address number signs to identify properties located in unincorporated areas of the county and to require the owners or occupants of properties in unincorporated areas of the county to obtain, install, and maintain address number signs in compliance with the standards and specifications adopted by the county commissioners court.

Provides that it is a Class C misdemeanor to knowingly fail or refuse to comply with an order of a commissioners court relating to installation and maintenance of address number signs.

Modification of Regional Participation Agreement Between Local Governments—H.B. 2726

by Representative Eissler—Senate Sponsor: Senator Williams

S.B. 1012, 80th Legislature, 2007, authorized the City of Houston and The Woodlands Township to enter into a regional participation agreement to fund projects that improve traffic into and out of the Texas Medical Center and the development of Lake Houston Park. The Woodlands Township requested statutory expansion of the boundaries of the existing regional participation agreements. This bill:

Expands the boundaries of the area to which the regional participation agreement applies and modifies the provisions of the agreement accordingly.

Contributions to Police Retirement System by Certain City—H.B. 2796

by Representative Strama—Senate Sponsor: Senator Watson

The City of Austin and the Austin Police Association agreed to the consolidation of the city's law enforcement function of the Public Safety and Emergency Management Department (PSEM) into the Austin Police Department (APD) and arranged for funding to the Austin Police Retirement System (APRS) for the cost of participating in the statewide proportionate retirement program. Without participation by APRS in the statewide program, the retirement benefits of the PSEM employees would have been adversely impacted by the consolidation. This bill:

Prohibits compensation of each noneligible member from exceeding \$200,000, rather than \$150,000, per calendar year.

Sets forth the rates at which the City of Austin is required to contribute to APRS.

Reinstatement of Firefighter or Police Officer from Military Leave—H.B. 2806

by Representative Maldonado et al.—Senate Sponsor: Senator Van de Putte

Current law authorizes police officers and firefighters to take a leave of absence to enter the U.S. military and entitles them to reinstatement in their employing department to their previous position if the person receives an honorable discharge, remains physically and mentally fit to discharge the duties of that position, and makes an application for reinstatement within 90 days after the date the person is discharged. However, when the person takes a military leave, the department may fill the vacancy with a person of higher rank than the person taking military leave. Reinstatement of the person taking military leave then causes a demotion of the person with a higher rank who filled the vacancy. This bill:

Deletes existing text providing that a fire fighter or police officer who fills the position is subject to replacement by the person who received the military leave at the time the person returns to active duty in the department.

Requires the fire fighter or police officer who has the least seniority, if the reinstatement of a fire fighter or police officer who received a military leave of absence causes a surplus in the rank to which the fire fighter or police officer was reinstated, to be returned to the position immediately below the position to which the returning fire fighter or police officer was reinstated.

Delegation of Duties by Certain County Judges—H.B. 2835

by Representative Marquez—Senate Sponsor: Senator Shapleigh

Under current law, a county judge in a county with a population of more than 1,000,000 has the authority to delegate to another county official or county employee the ability to sign orders or other official documents associated with the county judge's office on the county judge's behalf. Current law also allows a county judge to file a standing order of emergency delegation of similar authority. The orders must clearly indicate the types of orders or official documents that the officer or employee may sign on behalf of the county judge. Documents signed with this delegated authority have the same effect as an order of the county judge and the county judge may revoke the delegated authority or transfer it to a different person by filing another order at any time. This bill:

Extends similar delegation of duties authority to a county judge in a county that has a population of 600,000 or more located on the international border.

Online Notice of Auction to Sell Surplus or Salvage Property by Counties—H.B. 2859

by Representative Doug Miller—Senate Sponsor: Senator Wentworth

Counties are authorized to sell surplus or salvage property and equipment by holding an auction; however, they must comply with certain notice requirements prior to the auction, such as posting notice in a newspaper of general circulation. Currently, auctions are offered and held online, which is less costly and time consuming. This bill:

Requires a county that contracts with an auctioneer who uses an Internet auction site offering online bidding to sell surplus or salvage property having an estimated value of not more than \$500 to satisfy the notice requirement by posting the property on the site for at least 10 days unless the property is sold before the 10th day.

Consideration of Longevity and Cost of Living in Municipal Employee Pay—H.B. 3001

by Representative Homer—Senate Sponsor: Senator Eltife

Many municipalities have ordinances that allow the municipality to provide longevity pay to its employees. However, an attorney general opinion found no law giving a general law municipality the authority to provide such pay. This bill:

Authorizes a Type A or B general-law municipality to consider longevity and cost of living in setting the salary of a municipal employee.

Creation of County Bail Bond Board in Certain Counties—H.B. 3003

by Representative Homer—Senate Sponsor: Senator Eltife

Under current law, a county with a population of more than 110,000 is required to create a county bail bond board (board). The creation of a board in a county with a population of less than 110,000 is discretionary and authorized if a majority of the persons who would serve as members of the board, or who would designate the persons who would serve as members of the board, determine to create a board. However, there is no oversight of the board's creation by the county commissioners court. This bill:

Authorizes the creation of a board in a county with a population of less than 110,000 if the commissioners court approves the creation of the board by a majority vote and if a majority of the persons who would serve as member of the board determine to create a board.

Enforcement of Animal Shelter Standards by County—H.B. 3004

by Representative Coleman—Senate Sponsor: Senator Mike Jackson

Chapter 823 (Animal Shelters), Health and Safety Code, defines "animal shelter" as a facility that keeps or legally impounds stray, homeless, abandoned, or unwanted animals and establishes standards for animal shelters. The statute requires the governing body of a county or municipality in which an animal shelter is located to appoint an advisory committee to assist in complying with the requirement of the law; however, the advisory committee does not have any enforcement authority. This bill:

Authorizes a county to enforce the provisions in Chapter 823, except at an animal shelter operated by a municipality.

Requires that a person who violates Chapter 823 be assessed a civil penalty.

Registration of Vacant Buildings in Certain Municipalities—H.B. 3065

by Representative Bohac—Senate Sponsor: Senator Ellis

Vacant buildings can cause urban blight, decreasing the value of surrounding properties, and can be breeding grounds for crime. The governing bodies of municipalities are not always aware of the location of vacant buildings. This bill:

Authorizes a municipality located in a county with a population of 1.5 million or more to adopt an ordinance requiring owners of vacant building to register their buildings by filing a registration form with a designated municipal official.

Provides a presumption of vacancy of a building if all lawful residential, commercial, recreational, charitable, or construction activity at the building has ceased for more than 150 days or the building contains more than three units, 75 percent or more of which have not been used lawfully for more than 150 days.

County Authority to Crush or Recycle Retired High-Emission Vehicles—H.B. 3089

by Representatives Veasey and Leibowitz—Senate Sponsor: Senator Wendy Davis

Current law sets forth the authority of a county to dispose of salvage or surplus property, generally through a competitive bidding process or charitable donation. However, many counties have implemented programs that will replace the county's high-emission vehicles with low-emission vehicles, but they are reluctant to dispose of old vehicles through the competitive bidding process and would prefer to have the authority to crush or recycle any retired vehicles. This bill:

Authorizes the commissioners court of a county to order any vehicle retired under a program designed to encourage the use of low-emission vehicles to be crushed and recycled, if practicable, without a competitive bid or auction.

Regulation of Massage Parlors by Counties—H.B. 3094

by Representative Harless et al.—Senate Sponsor: Senator Dan Patrick

Illegitimate massage establishments may be involved in prostitution, narcotics, and human trafficking in certain areas in Texas. This bill:

Defines "massage parlor," "nude," and "sexual contact."

Authorizes a county commissioners court to by order prohibit or regulate massage parlors located in the county's unincorporated area.

Authorizes a district or county attorney to bring suit to enjoin the operation of a massage parlor in violation or threatened violation of such prohibition or regulation if a massage parlor has previously violated a prohibition or other regulation.

Provides that a person who violates a prohibition or regulation adopted under this Act is liable to the county for a civil penalty of not more than \$1,000 for each violation. Each day a violation continues is considered a separate violation.

Authorizes a county to bring suit in a district court to recover the civil penalty.

Makes it a Class A misdemeanor for a person to intentionally or knowingly operate a massage parlor in violation of a prohibition or regulation adopted under Act.

Provides that:

- this Act does not limit any other authority of a county to regulate massage parlors;
- this Act does not legalize anything prohibited under other state law; and
- a person subject to prosecution under this Act and any other law may be prosecuted under either or both laws.

Relating to Services and Duties of Local Governments—H.B. 3485 [VETOED]

by Representative Coleman—Senate Sponsor: Senator West

A number of statutes, such as the Code of Criminal Procedure, Election Code, Government Code, Health and Safety Code, Local Government Code, and Occupations Code, provide for the administration of various county and local government services and duties. At times, these statutes need to be updated to reflect current practices and procedures, such as allowing the use of electronic mail and teleconferencing. This bill:

Amends various sections of the Code of Criminal Procedure relating to the transmission of certain documents or information by use of electronic mail or teleconferencing, the requirements for justices of the peace and medical examiners regarding autopsies and investigations and the procedures for obtaining informed consent prior to the conduct of an autopsy.

Amends a chapter of the Education Code to provide that approval by the Texas Higher Education Coordinating Board is not required for buildings or other facilities financed by a public improvement district.

Amends a section of the Election Code to provide for the suspension or termination of employment of the county elections administrator.

Amends a section of the Government Code relating to reimbursement for jury service.

Amends various sections of the Health and Safety Code regarding employment of health care providers and physicians by the Dallas County Hospital District and certain other hospital districts and the cremation of unidentified human remains.

Amends various sections of the Local Government Code relating to disbursement of money for jury services; reimbursement for certain coverage provided by an intergovernmental pool; notice of a citation for a violation of a county or municipal rule or ordinance; the powers, duties, and funding of public improvement districts; and the creation, powers, duties, operations, and funding of county assistance districts.

Amends a chapter of the Occupations Code relating to requirements of the Texas Medical Board regarding certification of a health organization.

Adds a section to the Property Code to require certain notice of sale of foreclosed residential property and the completion of a certain form relating to the foreclosure sale.

Injunction of Municipal Purchasing Contracts by Certain Persons—H.B. 3668

by Representative Hopson—Senate Sponsor: Senator Nichols

Currently, a municipal public works construction contract is void if it is made without compliance with certain requirements sets forth in the law. Performance of the contract currently may only be enjoined by a property tax-paying resident of the municipality. Persons living outside of the municipality that submit a bid for such a contract have no standing to seek an injunction if the contract is awarded to another contractor in violation of the law. This bill:

Authorizes a contract for the construction of public works to be enjoined by a person, regardless of residency, who submitted a bid for the contract, to which the competitive sealed bidding requirement applies, if the contract is made without compliance with certain provisions in the law and is therefore void.

Waiver or Suspension of Deadlines by Governor During a Natural Disaster—H.B. 3851

by Representative Eiland—Senate Sponsor: Senator Huffman

Under current law, the governor is authorized to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster. Local government organizations are unable to perform certain duties and meet certain deadlines when a natural disaster has caused them to evacuate the area. This bill:

Authorizes the governor to waive or suspend a deadline imposed by a statute or the orders or rules of a state agency on the political subdivision, including a deadline relating to a budget or ad valorem tax, if the waiver or suspension is reasonably necessary to cope with a disaster.

Provides that a deadline imposed by local law on a political subdivision, including a deadline relating to a budget or ad valorem tax, is suspended if the territory of the political subdivision is wholly or partly located in the area of a disaster declared by the president of the United States or the governor and the presiding officer or governing body of the political subdivision proclaims the political subdivision is unable to comply with the requirement because of the disaster.

Authority to Issue Hurricane Ike Bonds and Validate Election in Certain Area—H.B. 3854

by Representative Eiland—Senate Sponsor: Senator Mike Jackson

After Hurricane Ike, the federal government authorized certain organizations to issue special bonds to finance rehabilitation and redevelopment after the storm. H.B. 3854 authorizes the issuance of such bonds and validates a bond election that was held in the aftermath of the storm. This bill:

Authorizes certain corporations in the Hurricane Ike disaster area to issue bonds to finance certain projects.

Validates the governmental acts and proceedings of a county relating to a bond election that was held November 4, 2008, at which the ballot proposition was approved by a majority of the voters voting on the proposition.

Authority of Webb County to Develop or Sell Certain Real Property—H.B. 4540

by Representative Raymond—Senate Sponsor: Senator Zaffirini

The Texas Constitution authorizes counties to sell or dispose of its land and requires that the proceeds of such a sale be held in trust and invested in bonds or other securities for the benefit of public schools in the county. The Commissioners Court of Webb County would like to develop land held in trust for the school district within the county but could not recover the costs of development. This bill:

Authorizes the Commissioners Court of Webb County to develop or sell the rights to natural resources or minerals in lands held in trust for the county permanent school fund and the county available school fund by Webb County and enter into an agreement with the school districts to obtain reimbursement of reasonable and necessary expenses incurred by Webb County.

Provides that this Act only takes effect if the constitutional amendment proposed by H.J.R. No. 142, 81st Legislature, Regular Session, 2009, is approved by the voters.

Procurement Methods Authorized for Public Projects by Local Governments—S.B. 229

by Senator West—House Sponsor: Representative Callegari

H.B. 1886, 80th Legislature, Regular Session, 2007, removed a provision from existing statute that phased in design-build authority for cities with a population between 50,000 and 100,000. A drafting error associated with the deletion of that provision had the unintended consequence of sunseting the design-build authority of cities with a population between 100,000 and 500,000 in 2011. This bill:

Deletes existing text providing that before September 1, 2009, this subchapter applies to a local governmental entity with a population of 500,000 or more within its geographic boundaries or service area.

Provides that this subchapter applies to a local governmental entity with a population of more than 100,000 within its geographic boundaries or service area, and deletes existing text limiting application of this subchapter to between September 1, 2009, and September 1, 2001, for such an entity.

Fire and Police Entrance Examination Age Restrictions—S.B. 461

by Senators Gallegos and Uresti—House Sponsor: Representative Miklos

Current law authorizes a person over the age of 36 to take the firefighter entrance examination, even though a person of that age is not eligible to be hired. This bill:

Prohibits a person from taking an entrance examination for a beginning position in the fire department unless the person is at least 18 years of age but not 36 years of age or older.

Disposition of Cash in Possession of a Deceased Pauper—S.B. 530

by Senator Dan Patrick—House Sponsor: Representative John Davis

Current law requires that the commissioners court of a county provide for the disposition of the body of a deceased pauper. Generally, when a body is brought to the morgue, the medical examiner will identify the person who has the right to control disposition of the body and any property found on the body. If no such person is identified, any property found on the body is held by the medical examiner's office for three years, at which time it escheats to the

state. This leaves the county responsible for paying any burial costs of a deceased pauper. Harris County estimates that, on average, the amount of cash found on bodies of paupers that were buried was less than \$100. This bill:

Authorizes a county that discovers cash in the possession of a deceased pauper to use the cash to pay the actual costs incurred in disposing of the pauper's body.

Requires the county to place any remaining cash in a trust for a specified time period to allow a person with claim to the money to exercise the right to collect the money.

Authorizes the county to create a fund into which it may transfer unclaimed money to be used to pay costs incurred in body disposition activities.

Adoption and Amendment of Model Building Codes by Certain Municipalities—S.B. 820

by Senator Duncan—House Sponsor: Representative Menendez

Currently, the processes by which certain municipal authorities adopt new or modify existing building model codes lack sufficient transparency to minimize costs and ensure compliance by affected parties. This bill:

Requires the governing body of a municipality with a population of more than 100,000, on or before the 21st day before the date the body takes action, to consider, review, and recommend the adoption of or amendment to a national model code governing the construction, renovation, use, or maintenance of buildings and building systems in the municipality and to publish notice of the proposed action conspicuously on the municipality's Internet website.

Requires the governing body of a municipality to encourage public comment from persons affected by the proposed action and, on written request from five or more persons, to hold a public hearing on the proposed action on or before the 14th day before the date of adoption or amendment.

Provides that the above requirements do not apply if the governing body has established an entity for the purpose of obtaining public comment on the proposed action.

Requires the implementation and enforcement of an ordinance or national model code provision that is intended to govern the construction, renovation, use, or maintenance of buildings and building systems to be delayed until at least 30 days after final adoption to permit persons affected to comply with the ordinance or provision, unless a delay would cause imminent harm to the health or safety of the public.

Municipal Investment of Public Funds from Mineral Rights—S.B. 894

by Senators Nelson and Wendy Davis—House Sponsor: Representative Truitt

In the Barnett Shale region, many municipalities receive royalties, leases, permit fees, and other non-taxable revenue in exchange for drilling rights. Because natural gas and mineral resources are limited, the revenues they produce are considered one-time payments. Municipalities would like to increase the utility of these payments by using long-term investment strategies; however, municipal investments are governed by the Texas Public Funds Investment Act (PFIA), which restricts investments to those that generally offer lower risk and a lower yield. This bill:

Authorizes a municipality to invest funds received from a lease or contract for the management and development of land owned by the municipality that is leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under the Texas Trust Code, in addition to certain other investments.

Use of a Perpetual Trust Fund for a Certain Cemetery—S.B. 1103

by Senator Duncan—House Sponsor: Representative Jones

The City of Lubbock Cemetery, dating back to the late 19th century, was previously operated by private, for-profit entities and nonprofit organizations that are now defunct, and the associated perpetual trust funds used to operate and maintain the cemetery have been unfunded. Currently, the City of Lubbock has allocated 10 percent of the money collected from each sale of cemetery property to a separate perpetual trust fund, the balance of which is \$110,000, to make needed improvements to the cemetery. This bill:

Authorizes the governing body of a municipality in a county with a population of at least 128,000 but not more than 300,000 to abolish the municipality's perpetual trust fund for a cemetery and use the fund, including both the principal and interest, for permanent improvements to the cemetery.

Money from a County's General Fund to be Used for Disaster Victims—S.B. 1112

by Senator Estes—House Sponsor: Representative Farabee

Under current law, counties are not authorized to provide disaster assistance from local funds to aid residents, even if such funds are available. Residents of Wichita County were devastated by flooding in 2007 and 2008, and while the victims of the 2007 flooding received sufficient aid, no such aid was available for victims of the 2008 flooding. An appeal to the Federal Emergency Management Agency for federal assistance was denied, and the State of Texas has been unable to provide aid due to the costs of Hurricane Ike and a recessionary economy. Therefore, with no federal, state, or local aid, residents of the county who were affected by the floods have not received sufficient relief. This bill:

Authorizes a county commissioners court to provide money from the county's general fund to residents adversely affected by a local disaster for which the county judge has declared a local state of disaster if the commissioners court has implemented policies and procedures to ensure the money is used specifically to provide for disaster relief and determined that financial assistance from other sources is unavailable or inadequate.

Regulation of Stormwater Management by Certain Counties—S.B. 1299

by Senator Watson—House Sponsor: Representative Rodriguez

Due to the population in the unincorporated portion of Travis County, the county is required by current state law to implement a storm water management program (program) that complies with a municipal separate storm sewer system permit. However, the Texas Commission on Environmental Quality (TCEQ) assumed authority from the United States Environmental Protection Agency to issue such permits and enforce program regulations and has already issued permits to larger entities under Phase I of the program.

TCEQ is now implementing Phase II of the program, which includes Travis County. Chapter 573 (Authority of Certain Counties and Districts to Regulate Stormwater Management), Local Government Code, authorizes Harris County and Bexar County to assess user fees associated with development permits to offset the costs of complying with program. Travis County, however, does not have such authority under existing law. This bill:

Provides that Chapter 573, Local Government Code, applies to a county with a population of 800,000 or more that contains a portion of the Edwards Aquifer.

Appointment of a Receiver to Remedy Hazardous Properties—S.B. 1449

by Senator West—House Sponsor: Representative Deshotel

During the interim of the 80th Legislature, the Senate Committee on Intergovernmental Relations was charged with examining the incidence of health and safety violations among multifamily and single-family rental properties and the adequacy of the existing authority conferred by the state upon local governments to address violations of habitability standards. Such examination revealed the need to provide additional options for municipalities relating to regulation and enforcement of such standards; however, most municipalities do not have adequate resources or the expertise needed to address rehabilitating dilapidated multifamily and single-family properties. This bill:

Authorizes a home-rule municipality to annually certify one or more nonprofit housing organizations under certain conditions to bring an action in district court against an owner of property that is not in substantial compliance with one or more municipal ordinances regarding the prevention of substantial risk of injury to any person or regarding the prevention of an adverse health impact to any person.

Provides that a municipality that grants such authority has standing to intervene in the proceedings at any time as a matter of right.

Authorizes the court to appoint a receiver under certain circumstances, and sets forth which entities or individuals are eligible to serve as a receiver, and sets forth the authority and responsibilities of an appointed receiver.

Sets forth notice and service requirements.

Authorizes the court, on a showing of imminent risk of injury to a person occupying the property or present in the community, to issue a mandatory or prohibitory temporary restraining order or temporary injunction as necessary to protect the public health or safety.

Authorizes the court to order sale of the property under certain circumstances and sets forth the procedure relating to sale and the required distribution of proceeds.

Exemption of Certain School Districts from Certain Drainage Charges—S.B. 1522

by Senator Shapleigh—House Sponsor: Representative Quintanilla et al.

The 80th Legislature, Regular Session, 2007, passed legislation that enabled the City of El Paso to charge drainage fees to property owners for the purpose of funding improvements designed to reduce flooding and address the appropriate drainage of storm water. Current law exempts the city, universities, and state buildings from paying the fee; however, school districts are not exempt from the fee. This bill:

Exempts property owned by a school district located wholly or partly in a municipality within 50 miles of an international border with a population of more than 500,000 from municipal drainage charges and all ordinances, resolutions, and rules adopted relating to municipal drainage utility systems.

Designation of Person to Receive Fees, Commissions, or Costs—S.B. 1554

by Senator Gallegos—House Sponsor: Representative Coleman

Current law requires certain county officers, including county commissioners, to record and report any fees, commissions, or costs earned or received by the officer. The law may be impractical for large counties because it requires commissioners to personally sign for the receipt of each of these funds. This bill:

Authorizes a district, county, or precinct officer in a county with a population of more than 190,000 to designate a person to receive money as fees, commissions, or costs on behalf of the officer, and extends related recording and reporting requirements applicable to the officer to such a designee.

Plans Relating to Records Management and Preservation Services—S.B. 1574

by Senator Hinojosa—House Sponsor: Representative Marquez

During the 77th Legislature, Regular Session, 2001, H.B. 370 created a records archive fee in border counties to preserve and restore county clerk archives as detailed in Section 118.025 (County Clerk's Records Archive), Local Government Code. Subsequently, this statute was amended to apply statewide; however, the original language requiring only county clerks along the Texas-Mexico border to submit a plan stating the use of funds collected to the commissioners court for approval remained in statute. This limits the ability of border county clerks to adapt to unanticipated events. This bill:

Deletes existing text requiring the county clerk in a county along the Texas-Mexico border to prepare an annual funding plan for the office's automation projects and records management and preservation services, requiring the commissioners court after a public hearing to consider the plan for approval, and restricting expenditures from the records management and preservation account to those expenditures provided by the plan.

Extension of Restrictive Covenants in Residential Real Estate Subdivisions—S.B. 1672

by Senator Nichols—House Sponsor: Representative Berman

The Emerald Bay subdivision (subdivision) in Smith County is a community of 32 separate units, each with its own plat and dedication. The conditions, covenants, and restrictions of most of the units are identical, but nine units have different restrictions, and six units have none. The subdivision wants all the units to have identical restrictions to ensure the quality and value of the subdivision. The Emerald Bay Homeowners Association has obtained signatures from a majority of the homeowners of the unrestricted lots who support voluntarily imposing identical conditions, covenants, and restrictions to all the lots. This bill:

Authorizes a procedure, if existing originally applicable restrictions provide the procedure for extension, to be used for successive extensions of the originally applicable restrictions unless the original restriction instrument expressly prohibits the procedure from being used for successive extensions.

Regulation of Discharge of Firearm and Other Weapons by Certain Municipalities—S.B. 1742

by Senators Shapiro and Nelson—House Sponsor: Representative Paxton

Certain landowners whose land was annexed after September 1, 1981, or who hold large tracts of land are currently authorized to discharge firearms and use such land for hunting purposes. Suburban areas are expanding and experiencing rapid annexation, and a case may arise in which one of those tracts of land is located next to a hospital, park, school, or residential area, causing concern to residents and local law enforcement that firearms may be discharged in close proximity to such locations. This bill:

Prohibits a municipality located wholly or partly in a county with a population of 450,000 or more, in which all or part of the municipality with a population of one million or more is located, and that is located adjacent to a county with a population of two million or more, from applying a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality after September 1, 1981, under certain circumstances.

Issuance of Resale Certificate by a Property Owners' Association—S.B. 1918

by Senator West—House Sponsor: Representative England

When property is sold in a subdivision with a property owners' association, it is common practice to obtain a resale certificate at the beginning of the process. Once a property is under contract and about to close, some associations require issuance of a new resale certificate with the concomitant time requirements and expense when only a dues update is necessary. This bill:

Requires a property owners' association, by a certain date, on request, to deliver to an owner or certain persons or entities acting on behalf of the owner an updated resale certificate that contains a statement of whether the association waives the restraint on sale, if a right of first refusal or other restraint on sale is contained in the restrictions; the status of any unpaid special assessments, dues, or other payments attributable to the owner's property; and any changes to the information provided in the previously issued resale certificate.

Requires requests for an updated resale certificate to be made within 180 days of the date a resale certificate is issued, and authorizes the update request to be made only by the party requesting the original resale certificate.

Recording a Management Certificate by Property Owners' Association—S.B. 1919

by Senator West—House Sponsor: Representative England

Management certificates of property owners' associations (associations) allow property owners to contact the association and attempt to resolve title issues. Currently, there are no consequences for an association's failure to file a management certificate. This bill:

Requires an association to record a management certificate that includes certain information in each county in which any portion of the residential subdivision is located, and addresses an association's failure to record a management certificate.

Personal Liability of Employee of Owner of Real Property for Certain Violations—S.B. 1945

by Senator West—House Sponsor: Representative Deshotel

Current law provides that the employee of a property owner or of a company that manages real property on behalf of the property owner is not personally liable for criminal or civil penalties resulting from a citation for a violation of a county or municipal rule or ordinance, so long as the employee provides the name and address of the property owner; however, there is no time limit in the statute in which the employee must provide the information. This bill:

Provides that an individual who is an employee of the owner of real property or of a company that manages the property for which a citation for a violation of a county or municipal rule or ordinance is issued is not personally liable for criminal or civil penalties resulting from the violation if, not later than the fifth calendar day after the date the citation is issued, the individual provides the property owner's name, current street address, and telephone number to the enforcement official who issues the citation or the official's superior.

Provides that the employee of the owner or management company to whom the aforementioned citation is issued is considered the owner's agent for accepting service of the citation for the violation of the county or municipal rule or ordinance.

Requires that the county or municipality issuing the citation mail notice of the citation to the property owner at the address most recently provided to the county or municipality by the property owner or by the employee of the owner or management company.

Composition of the Comal County Juvenile Board—S.B. 2134

by Senator Wentworth—House Sponsor: Representative Doug Miller

The Human Resources Code names the members of the Comal County Juvenile Board (CCJB). This bill:

Adds the judge of the 433rd District Court to CCJB.

Statute of Repose for Engineers and Architects—S.B. 2141 [VETOED]

by Senator Wentworth—House Sponsor: Representative Hughes

Under current law, the statute of limitations on a claim for a defective or unsafe condition against an engineer, architect, interior designer, or landscape architect is 10 years after the substantial completion of an improvement project. In 2003, the Texas Legislature enacted legislation allowing a defendant to designate a responsible third party. This bill:

Provides that this section is a statute of repose and that certain sections of the Civil Practice and Remedies Code relating to the joinder of a responsible third party do not apply to a claim barred by this section.

Assistance by Chief Appraiser to Emergency Management Authorities—S.B. 2148

by Senator Dan Patrick—House Sponsor: Representative Bohac

Currently, chief appraisers in several Texas counties assist local emergency management authorities with disaster damage estimation after hurricanes, floods, and tornadoes. This bill:

Requires a chief appraiser, if requested by the emergency management authorities of a federal, state, or local government agency, to provide information and assistance pertinent to disaster mitigation or recovery, including assisting in the estimation of damage from an actual or potential disaster event.

Authority of The Woodlands Township—S.B. 2515

by Senator Williams—House Sponsor: Representative Eissler

The Town Center Improvement District of Montgomery County, Texas, was created by legislation in 1993, and officially changed names upon voter approval to The Woodlands Township in 2007. This legislation seeks to consolidate the services provided by and the authority of other local organizations in the area under the authority of The Woodlands Township. This bill:

Authorizes the Town Center Improvement District of Montgomery County, Texas, also known as The Woodlands Township (The Woodlands), to enter into and enforce tax abatement agreements and take certain actions to promote business retention, sustain employment, prevent substandard and blighted housing conditions, and improve or dispose of recreational facilities.

Provides that The Woodlands is treated as a conservation and reclamation district entitled to participate in the election of the board of an appraisal district.

Authorizes The Woodlands to take certain actions relating to the funding of mobility projects, the placement of signs on the right-of-way of a road or highway, and the operation of a fire department.

Authorizes The Woodlands to impose an event admissions tax and a supplemental hotel occupancy tax and to issue public securities, rather than public bonds, to pay for or finance district projects.

Amends provisions relating to the election and authority of the board of directors of The Woodlands and the appointment of members of the governing body of the development zone.

Regulation of Tree Cutting in Certain Counties—S.B. 2553

by Senator Hegar—House Sponsor: Representative Morrison

Under current law, county governments are limited in their ability to regulate the cutting of certain types of trees located in the unincorporated areas of a county. Residents of Aransas County have witnessed the clear-cutting of hundreds of live oaks, which serve as a valuable economic resource to the county. These trees serve not only the residents of Aransas County, but also those individuals who travel to the coast from all over Texas due to their aesthetic beauty. This bill seeks to provide counties the ability to safeguard their natural resources for the benefit of all residents of Texas. This bill:

Authorizes the commissioners court of a county with a population of 50,000 or less that borders the Gulf of Mexico and in which is located at least one state park and one national wildlife refuge to prohibit or restrict the clear-cutting of live oak trees in the unincorporated area of the county.

Provides that a person commits a Class C misdemeanor punishable by a fine not to exceed \$500 if the person violates an order adopted under this section and the order defines the violation as an offense.

Authorizes the county attorney or an attorney representing the county to file an action in district court to enjoin a violation or threatened violation of an order adopted under this section, and authorizes the court to grant appropriate relief.

Exempts the facilities or operations of certain electric or gas utilities from such county regulation.

Office of Inspector of Hides and Animals—H.B. 328

by Representative Heflin—Senate Sponsor: Senator Seliger

The county office of inspector of hides and animals (office) was established in 1871 and filled for four-year terms by appointment of the governor. After the current Texas Constitution was adopted in 1876, the office became elective and the term was shortened to two years. In 1954, the term was returned to four years. The legislature then exempted many counties from electing an inspector. The 80th Legislature, Regular Session, 2007, adopted, and voters approved, H.J.R. 69, which amended the Texas Constitution to remove all references to the county office of inspector of hides and animals. Several statutory references to the county inspector of hides and animals remain. This bill:

Abolishes the office, deletes statutory references to the office from the Election Code, Agriculture Code, and Local Government Code, and transfers any records in the custody of an inspector of hides and animals to the county clerk of the county previously served by the inspector.

Classification of Elk and Elk Hybrids—H.B. 375

by Representative Sid Miller—Senate Sponsor: Senator Estes

Currently, the definition of livestock in the Agriculture Code does not include elk or elk hybrids. As a result, some appraisal districts have denied an agricultural valuation to farm elk breeders, as farm elk are not explicitly included in the Agriculture Code's definition of livestock. This bill:

Expands the definition of livestock in the Agriculture Code to include elk and elk hybrids.

Texas Invasive Species Coordinating Committee—H.B. 865

by Representative Swinford—Senate Sponsor: Senator Hegar

Invasive species compete with native species that require similar habitat niches and that may be in limited supply. Often, the exotic species thrives and the native species declines. Invasive species are likely to cause economic harm, environmental harm, or harm to human health. This bill:

Establishes the Texas Invasive Species Coordinating Committee (committee) to facilitate state efforts to prevent and manage invasive species in Texas, to serve as a catalyst for associated cooperation among state agencies, and to fulfill other functions related to managing invasive species.

Sets forth the member agencies of the committee.

Provides that the committee is administratively attached to the State Soil and Water Conservation Board.

Provides that the committee is subject to the Texas Sunset Act, with a sunset expiration date of September 1, 2013.

Texas Equine Incentive Program—H.B. 1881

by Representative Sid Miller et al.—Senate Sponsor: Senator Estes et al.

The Texas horse industry has lost millions of dollars over the past several years as breeders have moved to states, like Kentucky, that offer incentive programs. Since implementing an incentive program in 2006, Kentucky has increased the number of quarter horse stallions in the state from eight to 250. This bill:

Requires the Texas Department of Agriculture (TDA) to create and administer the Texas Equine Incentive Program (program).

Authorizes the program to apply only to Appaloosa horses, paint horses, and quarter horses.

Requires the owner of a stallion that has bred more than five mares during the 12-month period preceding the annual report with the applicable breeders' association, on the filing a report, to submit a duplicate of the report to TDA for the sixth and any subsequent mare bred by the stallion.

Requires an owner required to submit a duplicate breeding report to pay TDA a program fee in an amount of not less than \$30 per mare bred, as determined by TDA, in connection with each report submitted to TDA.

Authorizes an owner to submit a duplicate breeding report and program fee to elect not to participate in the program by giving written notice to TDA not later than the 30th day before the owner's annual breeding report is due to the applicable breeders' association.

Authorizes the owner of a stallion that has bred fewer than six mares to elect to participate in the program by submitting a duplicate breeding report and paying the equine incentive program fee for each mare bred by the stallion.

Requires TDA by rule to provide for the use of fees collected to grant equine incentive awards to the owners of eligible foals that participate in horse events in this state.

Requires TDA by rule to establish a point system by which the owner of an eligible foal is required to receive an equine incentive award based on the foal's participation in horse events held in this state that are sanctioned by the applicable horse breeders' association.

Prohibits TDA from using more than five percent of the fees collected to administer the program.

Safety of Fresh Fruits and Vegetables Produced in Texas—H.B. 1908

by Representative Tracy King—Senate Sponsor: Senator Hinojosa

In November 2008, the Texas Department of Agriculture (TDA) received \$92,000 in federal funds to create the Food Safety Good Agricultural Practices Program. The goal of the one-year program is to improve farm agricultural food safety practices involving fresh fruits and vegetables. The program allows growers and packers to work with the Texas AgriLife Extension Service to develop plans to improve their food safety practices. Many other states have similar programs to educate fruit and vegetable producers about on-farm safety. This bill:

Provides that TDA is the lead agency and requires TDA to assist the fresh fruit and vegetable industries with food safety issues and authorizes TDA to provide assistance to federal agencies in their implementation of voluntary guidelines relating to sound agricultural practices.

Requires TDA to coordinate, plan, and approve training and awareness programs for producers and packers of fresh fruits and vegetables.

Requires TDA to coordinate the planning and implementation of programs with colleges and universities in this state, the Texas AgriLife Extension Service, Texas AgriLife Research, the Department of State Health Services (DSHS), and private industry.

Authorizes TDA to adopt rules relating to implement voluntary guidelines relating to sound agricultural practices.

Requires TDA, in the development of rules for the certification of approved food safety curriculum or training, to consult and coordinate with DSHS.

Issuance and Execution of Agriculture Warrants—H.B. 1949

by Representatives Rios Ybarra and Leibowitz—Senate Sponsor: Senator Hinojosa

Section 71.0081 (Vehicle Inspections for Insect Pests or Plant Diseases), Agriculture Code, authorizes the Texas Department of Agriculture (TDA) to conduct vehicle inspections and set up vehicle check points to search for plant diseases or pests that could cause harm to the agricultural industry. TDA currently does not have the authority to enter premises to inspect plants over the objections of the owner. This bill:

Authorizes TDA to seek an agriculture warrant with respect to a plant pest or plant disease identified in the application for the warrant to perform certain tasks.

Authorizes an agriculture warrant to be issued only by a magistrate authorized to issue a search warrant under Chapter 18 (Search Warrants), Code of Criminal Procedure, only after TDA has exercised reasonable efforts to obtain consent to conduct a search, and on application by TDA accompanied by a supporting affidavit that establishes probable cause for the issuance of the warrant.

Requires that the warrant describe the street address and municipality or the parcel number and county of each place or premises subject to the warrant and each type of plant pest or disease that is subject of the warrant.

Requires that, in determining the existence of probable cause for the issuance of an agriculture warrant, it be sufficient to show only that the place or premises described in the application for the warrant are located in an area subject to a quarantine established by TDA with respect to the plant pest or disease that is the subject of the warrant or there is a reasonable probability the place or premises contain a plant pest or disease or are located in an area that is reasonably suspected of being infected with a plant pest or disease because of its proximity to a known infestation.

Entitles TDA to an ex parte hearing on an application for an agriculture warrant. Authorizes that the warrant be served and executed by a TDA employee and requires that it authorize TDA employees to undertake any action authorized by the warrant.

Requires a sheriff or constable, on request by TDA, to accompany and assist the TDA employee in serving or executing the warrant.

Requires that a copy of the warrant, at the time the warrant is executed, be delivered to a person 18 years of age or older who is occupying or living in the place or premises subject to the warrant or attached to the place or premises in a conspicuous location.

Authorizes a warrant to be renewed or extended by the magistrate who issued the original warrant if the magistrate determines there is probable cause for the warrant to be reissued or extended.

Requires that the agriculture warrant be returned to the issuing magistrate before the warrant expires.

Prohibits an agriculture warrant from being executed between 7 p.m. and 7 a.m. of the following day or on a state holiday, authorizing the entry into or inspection of the interior of any occupied residential dwelling, or being issued in blank.

Provides that a person commits an offense if the person intentionally interferes with the execution of an agriculture warrant. Provides that an offense under this subsection is a Class B misdemeanor.

Provides that this section does not restrict the authority of this state or a political subdivision of this state to otherwise conduct an inspection with or without a warrant as authorized by other law.

Issuance and Execution of Agriculture Warrants—H.B. 1965

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

The Parks and Wildlife Code allows permits to be issued to control wildlife that is causing serious harm to agricultural, horticultural, aquicultural interests or other property or is a threat to public safety. Under the current permitting system, a landowner must provide written notice to the county judge or the mayor of the municipality where the damage or threat occurs. The judge or mayor then must post notice and notify the Texas Parks and Wildlife Department (TPWD). TPWD must inspect the site in question and make recommendations for preventive measures to control damage. If the permit applicant meets the necessary criteria a permit may be issued to control protected wildlife without regard to the closed season or bag limit. This is commonly known as a depredation permit. Once the permit is issued, TPWD delivers the permit to the judge. The permit holder who kills depredating wildlife is required to notify the game warden who will then donate the carcass to charity. Failure to comply is a class B Parks and Wildlife Code misdemeanor. TPWD may cancel a permit if the permit does not accomplish its intended purpose. This bill:

Requires a person who has evidence clearly showing that wildlife protected by this code is causing serious damage to commercial agricultural, horticultural, or aquicultural interests or is a threat to public safety and who desires to kill the protected wildlife to give written notice of the facts to TPWD.

Authorizes the Texas Parks and Wildlife Commission (commission) to adopt rules to implement this subchapter, including rules governing reports that are required to be submitted to TPWD by a person who holds a permit issued by TPWD under this subchapter, the reinstatement of a canceled permit and a fee for the reinstatement, the possession of wildlife resources taken or held under this subchapter, the circumstances required to qualify for a permit, and the electronic issuance of permits.

Authorizes TPWD, on receiving notice from a person, to inspect the property and determine whether damage or a threat to public safety is occurring as alleged in the notice.

Prohibits TPWD, if the notice received by TPWD under Section 43.151 alleges damage or a threat to public safety caused by mule deer, pronghorn antelope, or desert bighorn sheep, from issuing a permit under Section 43.154 (Permit) unless TPWD inspects the property and determines whether serious damage or a threat to public safety is occurring.

Requires that the application for a permit to kill the protected wildlife (application) be in writing, be sworn to by the applicant, and contain a statement of facts relating to the damage or threat and an agreement by the applicant to comply with the provisions of this subchapter and any rules adopted by the commission under this subchapter, rather than an agreement by the applicant to comply with the provisions of this subchapter relating to the disposition of the protected wildlife.

Requires that the application be accompanied by a permit application fee of \$50 or an amount set by the commission, whichever amount is more.

Requires that proceeds from the fee be deposited in the special game, fish, and water safety account.

Requires TPWD, as soon as practicable, but not later than the 10th business day after the date TPWD receives an application, to approve or deny the application and, if the application is approved, issue the permit.

Prohibits TPWD from issuing a permit under this section for the killing of mule deer, pronghorn antelope, or desert bighorn sheep unless TPWD has inspected the property and has verified that serious damage or a threat to public safety as described in the notice under Section 43.151 is occurring, TPWD has made recommendations to the applicant regarding ways to minimize the damage or threat, and the applicant has made a reasonable effort to comply with the recommendations made by TPWD under this section.

Requires TPWD to deliver or mail the permit, if issued, to the person requesting the permit or to the regional or local office of TPWD for pickup by the person. Authorizes TPWD to issue the permit electronically.

Requires that the permit specify certain information, including the kind and number of wildlife authorized to be killed.

Requires the holder of a permit issued under this subchapter or a person designated by Section 43.154(c)(4) (relating to the persons permitted to kill the noxious wildlife) who kills wildlife under the authority of the permit to dispose of the carcass by donating it to a charitable institution, a hospital, a needy person, or any other appropriate recipient.

Prohibits the permit holder or a certain person from keeping or selling any part of the wildlife taken under this subchapter, including antlers.

Authorizes TPWD to cancel a permit if the permit does not accomplish its intended purposes, the permit holder fails to submit a required report to TPWD, or the permit holder intentionally made false claims on the application for the permit.

Authorizes TPWD to reinstate a canceled permit if the permit holder submits an application for reinstatement for an original permit and pays a fee set by the commission.

Provides that a violation is a Class C Parks and Wildlife Code misdemeanor.

Repeals Sections 43.153(c) (relating to requirement that the application be accompanied by certain documentation) and 43.157(a) (relating to allowing no permittee to fail to notify a game warden or other TPWD employee of the killing of wildlife), Parks and Wildlife Code.

Notice of Impoundment of an Estray—H.B. 2042

by Representative Flynn—Senate Sponsor: Senator Deuell

Estray laws require a sheriff who is notified of stray livestock to impound the estray when the owner is unknown or if, when notified by a sheriff, the owner fails to remove the estray within a reasonable amount of time. Currently, if a search for an estray does not reveal the owner, the sheriff is required to advertise the impoundment of the estray in a newspaper of general circulation in the county at least twice during the 15 days after the date of impoundment post a notice of the impoundment on the public notice board of the courthouse. The combined costs of impounding an estray become an expensive endeavor for a sheriff's department. This bill:

Requires the sheriff, if the search for the identity of the owner of the estray does not reveal the owner, to post a notice of the impoundment of the estray on the public notice board of the courthouse and advertise the impoundment of the estray in a newspaper of general circulation in the county at least twice during the 15 days after the date of impoundment or on the county's Internet website for at least 15 days after the impoundment.

Regulation of Commercial Fertilizer—H.B. 2527

by Representative Aycock—Senate Sponsor: Senator Hegar

A person is required to hold a certificate of registration from the Texas Feed and Fertilizer Control Service (service) to sell ammonium nitrate or ammonium nitrate material. The Texas Feed and Fertilizer Control Service is administered by the Office of the Texas State Chemist (OTSC), which is part of AgriLife Research under The Texas A&M University System. The Agriculture Code defines ammonium nitrate and ammonium nitrate material; requires registration with OTSC for sale of these materials; requires security measures for storage and daily inspection of inventory; specifies maintenance of records; and sets criminal penalties for violations, including a third-degree felony for purchasing ammonium nitrate with the intent to manufacture an explosive device. The Texas Administrative Code requires that sellers of ammonium nitrate and ammonium nitrate materials submit a registration and pay a fee on a yearly basis to OTSC. This bill:

Provides that this chapter preempts and supersedes any ordinance, order, or rule adopted by a political subdivision of this state relating to the regulation, registration, packaging, labeling, sale, distribution, use, or application of commercial fertilizer.

Prohibits a person from producing, storing, transferring, offering for sale, or selling ammonium nitrate or ammonium nitrate material unless the person holds a certificate of registration issued by the service under this subchapter.

Requires that an application for a registration submitted by an applicant who owns an ammonium nitrate facility be submitted on a form prescribed by the service that includes the name, address, and telephone number of each ammonium nitrate facility owned by the applicant and the name of the person designated by the applicant as the point of contact for each facility owned by the applicant and accompanied by a fee in an amount sufficient to cover the service's costs to administer this subchapter.

Disease Surveillance Program for Elk—H.B. 3330

by Representative Aycock—Senate Sponsor: Senator Estes

Elk and deer are prone to chronic wasting disease (CWD), which is a protein malfunction that eventually destroys brain tissue, similar to mad cow disease in cattle and Creutzfeldt–Jakob disease in humans. White-tailed deer are considered wildlife indigenous to Texas and are under the regulatory jurisdiction of the Texas Parks and Wildlife Department (TPWD). At the direction of TPWD, white-tailed deer are tested in a surveillance program for CWD. Surveillance involves collecting and examining brain tissue from deer that have died. Elk are classified as exotic livestock, falling under the jurisdiction of the Texas Animal Health Commission (TAHC). TAHC currently operates a voluntary disease surveillance program in place for elk. This bill:

Authorizes TAHC by rule to establish disease surveillance program for elk.

Requires that rules adopted under this section require each person who moves elk in this state to have elk tested for chronic wasting disease or other diseases as determined by the commission; be designed to protect the health of the elk population in this state; and include provisions for testing, identification, transportation, and inspection under the disease surveillance program.

Provides that a person commits an offense if the person knowingly violates a rule adopted by TAHC.

Provides that an offense is a Class C misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted of an offense under that subsection, in which event the offense is a Class B misdemeanor.

Veterinarian Reports of Diseased Animals—H.B. 4006

by Representative Hardcastle—Senate Sponsor: Senator Estes

The Texas Animal Health Commission (TAHC) maintains a list of livestock and animal diseases that must be reported to TAHC within 24 hours of diagnosis. This bill:

Adds bovine trichomoniasis, equine herpes virus-1, and equine viral arteritis to the list of diseases that are required to be reported to TAHC by a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal within 24 hours after diagnosis of the disease among livestock, exotic livestock, bison, domestic fowl, or exotic fowl.

Agricultural Biomass and Landfill Diversion Incentive Program—H.B. 4031

by Representatives McCall and Branch—Senate Sponsor: Senator Seliger

The federal government has prioritized energy independence and climate change initiatives that will drive significant financial and operational challenges within the power generation industry. The United States Congress is developing a national Renewable Portfolio Standard of 25 percent by 2025 and a carbon dioxide (CO₂) emissions cap and trade system that will drive a 25 percent reduction in CO₂ emissions by 2025 and an 80 percent reduction by 2050.

As the largest emitter of CO₂ in the United States, Texas faces the largest financial and operational impact of federal mandates. Renewable energy from wind, solar, and biomass provide options to offset CO₂ emissions. All options are necessary and viable and all options have known limitations. Co-firing bio-coal, however, provides an option to preserve the coal-fired power generation assets, reduce the financial impact of a cap and trade system, and assist in meeting increased renewable energy production targets. The 80th Legislature, Regular Session, 2007, enacted H.B. 1090 to create an agricultural biomass and landfill diversion incentive program at the Texas Department of Agriculture (TDA). This program provides grants to encourage the construction of facilities that generate electric energy with certain types of agricultural residues to promote the advancement of renewable energy in Texas. This bill:

Includes renewable biomass aggregators and bio-coal fuel producers among those who are eligible to receive grants from TDA under the agricultural biomass and landfill diversion incentive program as providers of specified fuels to facilities that use biomass to generate electricity, and to add co-firing biomass to the list of eligible fuels.

Defines such an aggregator and producer to mean an operator of an integrated harvesting, transportation, and fuel conversion facility that aggregates qualified agricultural or forest biomass and produces renewable fuel suitable for replacing coal or co-firing with coal.

Includes certain operators within the definition of a diverter and clarifies the definition of qualified agricultural biomass to include cotton gin trash, corn stover, grain sorghum harvest residues, sugarcane bagasse, and switchgrass as well as state designated forest management cuttings and brush management cuttings from private lands.

Makes a facility placed in service before August 31, 2009, eligible for reimbursement under the program if another facility placed in operation after August 31, 2009, is located 25 miles or less from the existing facility.

Clarifies that money in the program account may be appropriated to TDA for administrative purposes.

Authorizes TDA, on a determination that money in the account is insufficient to pay reimbursements or grants, to develop a proportionate and equitable schedule to pay the reimbursements or grants.

Seizure and Destruction of Plants—H.B. 4577

by Representatives "Mando" Martinez and Leibowitz—Senate Sponsor: Senator Hinojosa

Section 71.0091 (Seizure, Treatment, and Destruction of a Citrus Plant, Citrus Plant Product, or Citrus Substance), Agriculture Code, permits the Texas Department of Agriculture (TDA) to seize citrus plants that are determined to be infected with a pest or a disease. This bill:

Authorizes TDA to adopt rules that provide for a program to manage or eradicate exotic citrus diseases, including citrus canker and citrus greening.

Authorizes TDA to seize a citrus plant, citrus plant product, or citrus substance that TDA determines is located within proximity to a plant that is infected by a disease dangerous to any agricultural or horticultural product and is likely to be infected by that disease, regardless of whether the plant currently exhibits symptoms of the disease.

Requires TDA to notify the owner and authorizes TDA to provide for compensation to an owner of such a destroyed citrus plant, citrus plant product, or citrus substance.

Performance of Annual Soil Tests for Concentrated Animal Feeding Operations—S.B. 876

by Senator Averitt—House Sponsor: Representative Dunnam

Currently, concentrated animal feeding operations (CAFOs) governed by Subchapter L (Protection of Certain Watersheds), Chapter 26 (Water Quality Control), Texas Water Code, are required to submit on an annual basis third-party contractor conducted soil tests associated with permitted waste application fields to the Texas Commission on Environmental Quality (TCEQ). Soil testing is an imperfect science with many variables. The goal of this bill is to control as many variables as possible associated with soil testing in an environmentally sensitive area of the state. This bill:

Requires TCEQ to conduct the required annual soil sampling at a CAFO in a major sole source impairment zone and to allow TCEQ to contract for the conduct of the soil sampling.

Repeals Section 26.504(f) (regarding the requirement that TNRCC adopt rules to implement the requirement of waste application field soil sampling and testing), Water Code.

Texas Agricultural Finance Authority—S.B. 948

by Senator Estes—House Sponsor: Representative Aycock

The 70th Texas Legislature created the Texas Agricultural Finance Authority (TAFA) in 1987 to provide financial assistance, such as loan guarantees or below market loan interest rates, to borrowers in the agriculture industry for the expansion, development, and diversification of production, processing, marketing, and export of Texas agricultural products. TAFA is designed to provide financial assistance to individuals and businesses that have not had access to agricultural financial lending. This bill:

Includes a business that holds a permit under Subchapter L (Deer Breeder's Permit), Chapter 43 (Special Licenses and Permits), Parks and Wildlife Code, in the definition of "agricultural business."

Transport of a Farm Combine—S.B. 969

by Senator Seliger—House Sponsor: Representative Jones

Due to the increasing size of headers on agricultural combines, longer trailers are needed to transport them. Current law limits the length of a combination of vehicles used to transport a combine that is used in farm custom harvesting operations to 75 feet. This bill:

Exempts from specified length limitations a vehicle or combination of vehicles used to transport a combine that is used in farm custom harvesting operations if the overall length of the vehicle or combination is not longer than 75 feet if the vehicle is traveling on a highway that is part of the national system of interstate and defense highways or the federal aid primary highway system or 81-1/2 feet if the vehicle is not traveling on a highway that is part of the national system of interstate and defense highways or the federal aid primary highway system.

Farm-to-School Task Force—S.B. 1027

by Senator Watson—House Sponsor: Representative Kleinschmidt

Obesity and diet-related diseases are one of the greatest threats to children's health today caused in part by a lack of fruit and vegetable consumption. Further, Texas schools face many obstacles to improving the quality of meals and in utilizing local producers. According to the National Agricultural Statistics Service, the small farm is the fastest growing segment in the Texas agricultural industry with farmers seeking new markets to ensure continued economic success. This bill:

Establishes an interagency farm-to-school coordination task force to develop and implement a plan to facilitate the availability of locally grown food products in public schools to promote a healthy diet for schoolchildren and the business of small to mid-sized local farms and ranches.

Provides that the task force is composed of one representative each from the Texas Department of Agriculture, Texas Education Agency, and Department of State Health Services, appointed by the respective commissioners of those agencies, and at least one representative each from fruit and vegetable producer organizations, school food service organizations, food distribution businesses, child nutrition and advocacy organizations, parent organizations, educational institutions that conduct research in the areas of agriculture and nutrition, and health nutrition educators who serve school districts, appointed in each case by the commissioner of agriculture.

Sets forth the responsibilities of the task force.

Removal of Cattle Guards on County Roads—S.B. 1059

by Senators Hegar and Zaffirini—House Sponsor: Representative Phillips

Currently, Chapter 251 (General County Authority Relating to Roads and Bridges), Transportation Code, includes sections relating to the construction, replacement, and repair of cattle guards on county roads. There are no statutes relating to the removal of cattle guards. This bill:

Authorizes the commissioners court of a county to remove a cattle guard from a county road of any class if the commissioners court notifies each person who owns land adjacent to the cattle guard by certified mail not less than 90 days before the proposed removal of the cattle guard.

Provides that the commissioners court is not required to hold a public hearing on a proposed cattle guard removal.

Requires the commissioners court, if a resident of the county requests a public hearing, to hold a public hearing on the removal of the cattle guard.

Requires that a request for a public hearing, to be valid, be in writing and be made before the 75th day after the date the notice of removal is mailed.

Penalties for Theft of Certain Farm Animals—S.B. 1163

by Senator Seliger—House Sponsor: Representative Kolkhorst

The theft of cattle and livestock has become increasingly problematic recently, especially along the border of the Texas Panhandle. This bill:

Provides that an offense under this section is a felony of the third degree if the property is 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000.

Removes the provision that an offense is a state jail felony if the property is less than 10 head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001 (Definitions), Agriculture Code, or any part thereof under the value of \$20,000, or less than 100 head of sheep, swine, or goats.

Removes the provision that an offense is a felony of the third degree if the property is 10 or more head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, or 100 or more head of sheep, swine, or goats, stolen during a single transaction and having an aggregate value of less than \$100,000.

Database for Deer Breeder Reporting Requirements—S.B. 1586

by Senators Harris and Lucio—House Sponsor: Representative Phillips

The Texas deer breeding industry is required to make annual monitoring reports regarding chronic wasting disease to the Texas Parks and Wildlife Department (TPWD) and the Texas Animal Health Commission (TAHC); however, the reports have different due dates. Many breeders report that permit reissuance now lags up to two years. Legislation enacted by the 80th Legislature, Regular Session, 2007, authorizes TPWD to issue permits that are valid for longer than one year; however, even if that increase were to occur, breeders are required to report their herd inventory to TPWD and TAHC annually. This bill:

Requires TPWD, in conjunction with TAHC, to develop and maintain a process for a database to be shared by both agencies to eliminate, to the extent possible, the need for a deer breeder to submit duplicate reports to the two agencies.

Requires that the database include the reporting data required to be provided by each deer breeder to TPWD and TAHC.

Requires TPWD and TAHC, by rule, to provide incentives to deer breeders whose cooperation results in reduced costs and increased efficiency by offering reduced fees for the deer breeder permit and a permit with an extended duration.

Regulation of Poultry Facilities and Poultry Litter—S.B. 1693

by Senator Ogden—House Sponsor: Representative Cook

Livestock and poultry wastes from animal feeding operations are regulated to prevent dumping. Livestock and poultry wastes are also regulated when they are applied on land controlled by the operators of animal feeding operations. When these by-products are exported from the animal operations to private lands, they are treated like fertilizer and regulations for hauling and application are limited. This bill:

Requires the Texas Commission on Environmental Quality (TCEQ) to respond to and investigate odor complaints against a poultry facility within 18 hours of receiving a complaint and to issue a notice of violation if it determines that the facility is violating the terms of its air quality agreement or is creating a nuisance.

Requires a poultry facility for which TCEQ has issued three notices to enter a compliance agreement, which includes an odor control plan.

Requires the State Soil and Water Conservation Board (board), in consultation with TCEQ, to establish criteria to determine the geographic, seasonal, and agronomic factors that the board will consider to determine whether a persistent nuisance odor condition is likely to occur when assessing the siting and construction of new poultry facilities.

Prohibits the board from certifying a water quality management plan for a poultry facility under certain conditions and provides exceptions to the prohibition.

Requires the owner or operator of a new poultry facility to undergo training offered by the Texas AgriLife Extension Service (Agri-Life) on the prevention of odor nuisances.

Authorizes AgriLife to charge a fee for the training.

Requires that a poultry facility that sells or transfers poultry litter and a person that purchases or obtains the litter maintain certain records about the sale or transfer and provides certain exceptions for litter that is taken to a composting facility, used as a bio-fuel, used in a bio-gasification process, or is otherwise beneficially used without being applied to land.

Authorizes TCEQ to delegate to the executive director the authority to issue an administrative order, including an administrative order that assess penalties or orders corrective measures, to ensure compliance with the provisions of this code and the Health and Safety Code within TCEQ's jurisdiction.

Removes the requirement for TCEQ to apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section from users of water and wastewater permit holders in the watershed according to the records of TCEQ generally in proportion to their right, through permit or contract, to use water from and discharge wastewater in the watershed.

Removes the requirement that the rules ensure that program funds are equitably apportioned among basins.

Removes the requirement that the rules concerning the apportionment and assessment of reasonable costs provide for a recovery of not more than \$5,000,000 annually.

Removes the provision that costs recovered by TCEQ are to be deposited to the credit of the water resource management account and is authorized to be used only to accomplish the purpose of this section.

Removes the requirement that TCEQ apply not more than 10 percent of the costs recovered annually toward TCEQ's overhead costs for the administration of this section and the implementation of regional water quality assessments.

Removes the requirement that TCEQ, with the assistance and input of each river authority, file a written report accounting for the costs recovered under this section with the governor, the lieutenant governor, and the speaker of the house of representatives on or before December 1 of each even-numbered year.

Liens for Veterinary Care Charges for Large Animals—S.B. 1806

by Senator Zaffirini—House Sponsor: Representative Gonzalez Toureilles

Although veterinarians in Texas may currently sell or dispose of an "abandoned" animal, there is no statutory lien to allow a veterinarian to sell a horse or other animal if the owner does not pay for veterinary services. Because of this, many veterinarians experience problems collecting outstanding debts from their clients. Under Texas law, if the owner comes to pick up the animal, in most cases the veterinarian has no option but to allow the owner to take the animal with or without consent. This bill:

Provides that a veterinarian has a lien on a large animal and the proceeds from the disposition of the large animal to secure the cost of veterinary care the veterinarian provided to the large animal.

Provides that a lien under this section attaches on the 20th day after the date the veterinarian first provides care to the large animal; attaches regardless of whether the veterinarian retains possession of the large animal; takes priority over all other liens on the large animal for the period during which the veterinarian retains possession of the large animal, regardless of whether the lien under this section was created or perfected after the date on which another lien was created or perfected, if the veterinarian retains possession; and has priority with respect to other liens if the veterinarian does not retain possession.

Authorizes the veterinarian to retain possession of a large animal under this section and enforce a lien.

Authorizes a veterinarian who does not retain possession of a large animal under this section to enforce a lien under this section in the same manner as a statutory residential landlord's lien.

Acquisition by State Agencies of Low-Emissions Vehicles—H.B. 432

by Representative Lucio III et al.—Senate Sponsor: Senator Estes

As of January 2006, the fleet size for all state agencies totaled over 20,000 vehicles. These fleet vehicles are used for the transportation of materials and staff. Additionally, fleet vehicles are also used to conduct vital operations such as maintenance and law enforcement activities. State agencies are required to purchase vehicle fleets that are capable of using alternative fuel. Initially, these vehicles are often more expensive, but result in lower fuel costs over the life of the vehicle, making them fiscally responsible purchases.

Currently, 10 percent of all new vehicles purchased by state agencies are required to be rated by the United States Environmental Protection Agency as a Tier II, Bin 3 vehicle with a Gas Greenhouse Score of at least eight. This bill:

Defines "conventional gasoline," "golf cart," "light-duty motor vehicle," "motor vehicle," "neighborhood electric vehicle," and "plug-in hybrid motor vehicle."

Authorizes a vehicle being purchased by a state agency to have a wheelbase of up to 116 inches or SAE net horsepower of up to 280 if the vehicle will be converted so that it uses compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.

Requires a state agency that operates a fleet of more than 15 motor vehicles, excluding law enforcement and emergency vehicles, not later than September 30, 2010, to have a fleet consisting of vehicles of which at least 50 percent use certain types or blends of gas or electricity.

Requires the Texas Commission on Environmental Quality to collect reasonable information needed to determine the air quality benefits from use of certain types or blends of gas or electricity at affected agencies.

Requires a state agency in its annual financial report to the legislature to report its progress in achieving the percentage requirements of this section by itemizing purchases, leases, and conversions of motor vehicles; itemizing usage of certain types or blends of gas or electricity; describing the availability of certain types or blends of gas or electricity; and providing the information reasonably needed to determine the air quality benefits from use of certain types or blends of gas or electricity.

Requires the Texas State Technical College System to develop a program and provide training to a state agency converting an existing vehicle to meet the requirements of this section.

Authorizes the comptroller of public accounts (comptroller) to reduce a percentage specified by this section or waive the requirements of this section for a state agency on receipt of certification supported by certain evidence acceptable to the comptroller.

Requires a state agency authorized to purchase passenger vehicles or other ground transportation vehicles for general use to ensure that not less than 25 percent of the vehicles the agency purchases during any state fiscal biennium, other than certain vehicles the purchase of which is exempted from this subsection, are vehicles that meet or exceed the emissions standards necessary to be rated by the United States Environmental Protection Agency as a Tier II, Bin 3, emissions standard vehicle that has a greenhouse gas score of weight under regulations of that agency as they existed September 1, 2007.

Incentives for Capturing and Sequestering Carbon Dioxide—H.B. 469

by Representative Phil King et al.—Senate Sponsor: Senator Seliger

Texas has an opportunity to become the first state in the United States with fully operational large-scale clean coal power plants that capture at least 70 percent of the carbon dioxide (CO₂) they produce. In many cases, the captured CO₂ could be used for valuable enhanced oil recovery (EOR) projects, thus creating additional economic benefit to the state. The capture of 70 percent of CO₂ will meet some of the most stringent the emission standards in the United States.

Texas is well-suited to become a major repository for CO₂ capture. The Texas Bureau of Economic Geology at The University of Texas (bureau) estimates that as much as three to five billion barrels of additional Texas oil is available across the state to be recovered using CO₂ for EOR. Furthermore, Texas offers the nation many industrial and geological opportunities to use and store the vast amounts of CO₂ produced from burning coal for needed electric generation. Texas has the potential to become the low-cost provider of carbon sequestration services to the entire Southeastern United States. This bill:

Creates incentives for the development of clean coal technology.

Directs the comptroller of public accounts to issue franchise tax credits of 10 percent of the total capital costs or \$100 million per qualifying project, whichever is less.

Provides a payment schedule that qualifying projects must follow to reimburse the bureau for the costs related to monitoring, measuring, and verifying the status of sequestered CO₂.

Authorizes that the current reduced severance tax rate for manmade CO₂ used in enhanced oil recovery would apply to the use of CO₂ from clean energy projects for 30 years.

Emissions Inspections at Motor Vehicle Inspection Stations—H.B. 715

by Representatives Phil King and Callegari—Senate Sponsor: Senator Estes

A vehicle emissions inspection station operating under a low volume waiver is limited to performing 1,200 emission inspections per year under the Texas Administrative Code. Such a station operates with an onboard diagnostic (OBD) system that can only inspect vehicles that are model year 1996 and newer. Each month the inspection station is allocated 100 emission tests. After the monthly test allocation of the station is used, no more inspections are allowed until the next month. If the station performs fewer than 100 emission tests, the remaining number will carry over to the next month. The annual waiver limit automatically resets each January, with no carry-over from the previous year. The rule was adopted in 2002, because the cost of acceleration simulation mode (ASM) emissions inspection systems, which have the ability to test vehicles that are model year 1995 and older, is much higher than the cost of OBD machines. The Texas Commission on Environmental Quality and the Department of Public Safety of the State of Texas (DPS) wanted to provide an incentive for automotive shops to purchase the more expensive ASM machines so that more inspection stations could accommodate older cars and exempted ASM machines from the rule limiting the number of inspections conducted. The rule has been in place for seven years, giving ASM machine owners plenty of opportunity to pay for their machines. The rule hurts OBD machine owners that are forced to turn away paying customers mid-way through each month because the monthly allocation of 100 emissions tests has been used. This bill:

Defines "limited emissions inspection."

Prohibits a rule of DPS that allows a qualified inspection station to perform a limited emissions inspection of a motor vehicle from restricting the station to fewer than 150 inspections per month.

Penalty for Outdoor Burning Violations—H.B. 857

by Representatives Laubenberg and Sheffield—Senate Sponsor: Senator Estes

Current law requires a person in violation of conducting an outdoor burning to be arrested in order to be properly processed. The additions in this bill will allow for more clarity in the law, help law enforcement officers execute their duties more effectively, and deter repeat violations. This bill:

Creates more defined categories for outdoor burning violations and enhances the penalties for subsequent violations and the burning of certain substances.

Consumer Programs for Alternatively Fueled Appliances or Equipment—H.B. 1731

by Representative Pitts et al.—Senate Sponsor: Senators Ogden and Uresti

The Alternative Fuels Research and Education Division (AFRED) of the Railroad Commission of Texas (railroad commission) was established to promote research and education about alternative fuels in the state. One of the main functions of AFRED is the division's management of the consumer rebate program for propane. This rebate program is funded from total dollars collected annually from 1/10 of one cent of propane sold.

Currently, at the end of each fiscal year, the railroad commission sweeps any unspent consumer appliance program rebate funds and moves them into the next fiscal year as general available funds. This bill:

Requires the railroad commission to carry over from one fiscal year to the next any unused consumer rebates for the installation of energy-efficient propane appliances and establishes that the carryover amount is not counted in determining the 50 percent limitation of the proportion of the fund usable for the rebate program during a fiscal year.

Carbon Dioxide Capture and Sequestration—H.B. 1796

by Representative Chisum et al.—Senate Sponsor: Senator Watson

It is becoming increasingly certain that federal regulation of anthropogenic carbon dioxide (CO₂) emissions will be mandated in some form. As a major emitter of CO₂ it is essential that Texas take a proactive posture to address the impact of these regulations. A portfolio of solutions will be necessary in order to achieve the desirable substantive reductions in carbon emissions.

The unique and heavily researched geology of Texas makes it a world-class candidate for the storage of CO₂ in brine aquifers offshore along the Texas gulf coast. A carbon repository would allow Texas to safely and securely store large volumes of CO₂ from emissions sources in Texas and other states for years to come.

The University of Texas Bureau of Economic Geology (bureau) is a world-leader in CO₂ injection research. The bureau draws from the unique experience of CO₂ injection in the Texas Permian Basin, which by volume accounts for 80 percent of the total CO₂ injection worldwide. This research has the potential to neutralize the great financial challenge to the state of a carbon cost, and even turn it into a source of revenue by storing CO₂ emissions on behalf of other states. This bill:

Expands efforts to improve air quality in Texas.

Establishes a program to develop an offshore deep subsurface geologic repository for the storage of anthropogenic carbon dioxide.

Requires the land commissioner to contract with the bureau to conduct a study of state-owned offshore submerged land to identify potential locations for a carbon dioxide repository and to recommend suitable sites to the School Land Board.

Requires the bureau to perform the measurement, monitoring, and verification of the permanent storage status of the stored carbon dioxide, to serve as a scientific advisor for those tasks, and to provide data relating to those tasks to the board. The carbon dioxide is owned by the permanent school fund and is administered and controlled by the land board, which is prohibited, along with the Texas Commission on Environmental Quality (TCEQ), from establishing or regulating the rates charged for transporting the carbon dioxide to the repository.

Requires the land commissioner to issue an annual report, posted on the General Land Office's website, regarding the repository.

Establishes a new technology implementation grant program, which expires August 31, 2019, for new technologies to reduce emissions from facilities and other stationary sources in Texas.

Sets forth application requirements, guidelines, and criteria for administering the grant program, including the coordination of application review by TCEQ, the comptroller of public accounts (comptroller), the Public Utility Commission of Texas (PUC), and the Railroad Commission of Texas (railroad commission).

Provides for establishing criteria for prioritizing projects eligible to receive grants, establishing methodologies for evaluating project cost-effectiveness, and determining the amount of the grant.

Requires TCEQ to give preference to projects that use natural resources originating or produced in Texas, that contain an energy efficiency component, or that include the use of a renewable energy source.

Prohibits grant funds from being used to operate and maintain the emissions-reducing equipment and provides for an annual review of each grant recipient by the comptroller.

Extends from August 31, 2013, to August 31, 2019, the expiration dates for the clean school bus program, the Texas Emissions Reduction Plan (TERP), and TERP surcharges or fees relating to the sale, lease, or use of certain heavy duty diesel equipment and on-road diesel vehicles weighing more than 14,000 pounds, the registration of truck-tractors and commercial motor vehicles, the inspection of certain commercial motor vehicles, and the titling of motor vehicles.

Revises the allocation of TERP funds and the administration of the new technology research and development program and adds an air quality component to the program.

Requires TCEQ, the railroad commission, the Department of Agriculture, and PUC to jointly participate in the federal government process for developing federal greenhouse gas reporting requirements and federal greenhouse gas registry requirements. It further requires TCEQ to establish an inventory of voluntary actions taken by businesses in Texas or by state agencies since September 1, 2001, to reduce carbon dioxide emissions and to work with the Environmental Protection Agency to give credit for these early actions.

Status of Certain Transporters of Certain Gases—H.B. 1883

by Representative Farabee—Senate Sponsor: Senator Averitt

Under current law, most entities engaged in the transportation and gathering of natural gas within Texas are not regulated like their counterparts in the interstate system. Intrastate pipelines in Texas are allowed to claim an exemption from utility status, reporting, and other requirements by self-certifying to the Railroad Commission of

Texas (railroad commission) that they meet the criteria for the gathering exemption. Most pipelines claim this exemption and there is speculation that some may not be eligible for the exemption. This bill:

Authorizes the railroad commission to review a certification made by a person claiming to be exempt from being considered a gas utility because the person transports gas in, or in the vicinity of, the field or fields where the gas is produced.

Requires the railroad commission to invite a person whose certification is being reviewed to an informal meeting to resolve the person's status. If a person's status remains unresolved after the informal meeting and there is sufficient reason to move forward, the railroad commission is required to provide notice and an opportunity for hearing, after which the railroad commission will make a determination on the exemption claim.

Greenhouse Gas Emission Reduction Strategies—S.B. 184

by Senator Watson—House Sponsor: Representative Chisum

Texas can realize economic benefits, cost savings to businesses and consumers, and environmental benefits of identifying and prioritizing no-cost and cost saving greenhouse gas reduction strategies. This bill:

Requires the comptroller of public accounts (comptroller), by December 31, 2010, to prepare and deliver to each member of the legislature a report that includes a list of "no regrets" greenhouse gas emissions reduction strategies for Texas.

Requires the comptroller to appoint one or more advisory committees to assist in identifying and evaluating the strategies and requires one representative from the Railroad Commission of Texas, the General Land Office, the Texas Commission on Environmental Quality, the Texas Department of Agriculture, and a Texas institution of higher education to serve on the committee or committees.

Capture, Injection, Sequestration, or Geologic Storage of Carbon Dioxide—S.B. 1387

by Senator Seliger—House Sponsor: Representative Crownover

Currently, there is no regulatory framework in Texas for the non-commercial sequestration of carbon dioxide and entities wanting to capture and sequester carbon dioxide for long-term storage are left without clear legal guidelines by which to operate. Under the new administration in Washington, D.C., the adoption of federal mandates to regulate carbon dioxide as a pollutant is more likely than ever. Texas operators may very well be required to capture and sequester carbon dioxide under these new rules as early as 2011. This bill:

Establishes a regulatory framework for the implementation of projects involving the capture, injection, sequestration, or geologic storage of carbon dioxide.

Establishes that the Railroad Commission of Texas (railroad commission) has jurisdiction over the administration of geologic storage of anthropogenic carbon dioxide in, and the injection of carbon dioxide into, a reservoir that is initially or may be productive of oil, gas, or geothermal resources or a saline formation directly above or below that reservoir, subject to legislative review based on recommendations made in a preliminary report prepared jointly by the commission and the Texas Commission on Environmental Quality (TCEQ), in consultation with the Bureau of Economic Geology of The University of Texas at Austin.

Requires a similar report from the General Land Office, specifies the type of information to be included in the reports, and requires the report to be filed with the legislature not later than December 1, 2010.

Establishes the railroad commission's jurisdiction over a well used for the geologic storage of anthropogenic carbon dioxide regardless of whether the well was initially completed for that purpose or a different purpose and subsequently converted to the purpose described above, but provides that TCEQ does not have jurisdiction over the injection of fluid through the use of certain injection wells defined by federal law for the primary purpose of enhanced recovery operations.

Requires the railroad commission to adopt rules and procedures to carry out its regulatory powers, specifies that such rules and procedures must be consistent with federal requirements, and authorizes the railroad commission to collect fees and penalties to enforce the rules. The fees collected are to be deposited to the credit of the newly created anthropogenic carbon dioxide storage trust fund (fund).

Sets forth the authorized uses of the fund.

Prohibits a person from drilling or operating an anthropogenic carbon dioxide injection well for geologic storage or constructing or operating a regulated geologic storage facility without a permit issued by the railroad commission, and sets forth provisions for the permitting process and the imposition of fees.

Requires the applicant for a permit to provide to the railroad commission a letter from the executive director of TCEQ stating that drilling and operating the injection well will not injure any freshwater strata in that area and that the formation or stratum to be used for the geologic storage facility is not freshwater sand, and it requires other environmental protections to be met before the railroad commission issues a permit.

Requires the applicant to provide to the railroad commission satisfactory evidence of financial responsibility each year and sets forth provisions relating to a performance bond or other form of financial security an applicant may be required to maintain.

Sets out provisions relating to the railroad commission's authority to adopt rules that authorize multiple or alternative uses of injection wells, including the conversion of a well from its authorized purpose to a new or additional purpose, and provisions relating to the ownership of the anthropogenic carbon dioxide.

Public Meeting for Permit Applications Under the Texas Clean Air Act—S.B. 1472

by Senator Gallegos—House Sponsor: Representative Hernandez

Currently, the Texas Commission on Environmental Quality (TCEQ) may set a public meeting to provide information to communities affected by proposed or existing facilities that have permits currently under consideration by TCEQ. While representatives from TCEQ attend these meetings to provide information and the public is encouraged to attend and ask questions, the permit applicant is not required to attend or answer questions. This bill:

Requires an applicant for a preconstruction permit or renewal of a preconstruction permit under the Texas Clean Air Act to attend a public meeting and make a reasonable effort to respond to questions relevant to the permit application.

Reporting Contamination by Common Carrier, Pipeline Owner, or Operator—H.B. 472

by Representative Hilderbran—Senate Sponsor: Senator Hinojosa

Common carriers and owners and operators of pipelines may hesitate to report leaks and evidence of ground contamination for fear of incurring liability. This bill:

Releases a common carrier or pipeline owner or operator that makes a contamination report from all liability for the contamination or the cleanup of the contamination covered by the report, except for any contamination caused by the common carrier or pipeline owner or operator.

Authorizes the Railroad Commission of Texas (railroad commission) to use money in the oil field cleanup fund to implement provisions relating to a contamination report.

Limits the amount of money in the fund the railroad commission may use for that purpose to the amount of money in the fund that is derived from certain reporting fees collected from common carriers or owners or operators of pipelines as determined annually by the railroad commission.

Use of Crossbows for Hunting—H.B. 968

by Representative Homer et al.—Senate Sponsor: Senator Harris

Only a licensed individual with an upper limb disability is authorized to hunt deer, turkey, or javelina with a crossbow during open archery season. Otherwise, any licensed hunter is authorized to use a crossbow during the regular hunting season. A violation is a Class C Parks and Wildlife misdemeanor, punishable by a fine of between \$25 and \$500. This bill:

Authorizes a hunter, in a county that does not permit hunting with a firearm, to use a crossbow during open archery season if the hunter is a person with upper limb disabilities and has an archery hunting stamp.

Use of Golf Carts on Beaches—H.B. 1213

by Representative Rios Ybarra—Senate Sponsor: Senator Lucio

Some state policies regarding access to the public beaches of Texas are implemented through rules promulgated by the commissioner of the General Land Office (commissioner) in accordance with provisions of the Natural Resources Code. The legality of using golf carts on a beach is presently unclear and controversial. However, the use of golf carts is at times the only means by which a person with a physical disability may access the beach. By adopting rules regarding such use, the commissioner may provide the guidance to local governmental authorities needed to address the issue of local beach access and dune protection. This bill:

Requires the commissioner to promulgate rules on the use on a public beach of a golf cart for the transportation of a person with a physical disability

Shore Protection Structures and Line of Vegetation—H.B. 1445

by Representative Bonnen—Senate Sponsor: Senator Huffman

Most of the inlets from the Gulf of Mexico to Texas bays and estuaries are navigational inlets constructed and maintained by the United States Army Corps of Engineers and are protected by artificial jetties and stone revetments. Where natural inlets occur, the location of the pass can be very dynamic and result in extraordinary erosion that may adversely affect private property such as houses and public infrastructure such as roads and bridges. Beach

nourishment projects are not a feasible response to erosion due to the dynamic nature of such passes. In such areas, revetment-style coastal protection structures may be the only alternative to retreat and removal of structures and infrastructure. This bill:

Amends the Natural Resources Code to allow a political subdivision of the state acting with the approval of the commissioner of the General Land Office (commissioner) to erect or maintain a shore protection structure that is designed to protect public infrastructure, including a state or county highway or bridge; that is located on land that is state-owned submerged land or was acquired for the project by a subdivision of Texas, and is located in or adjacent to the mouth of a natural inlet from the Gulf of Mexico; and that extends at least 1,000 feet along the shoreline.

Authorizes the commissioner, in granting approval of a shore protection structure, to specify requirements for the design and location of the structure or any required public parking area.

Establishes that the line of vegetation in an area of public beach where a shore protection structure interrupts the natural line of vegetation is along the seaward side of the shore protection structure.

Clarified that the line of vegetation is the landward boundary of the public beach and of the public easement.

Requires a political subdivision of Texas, before it begins construction of a shore protection structure, to conduct and obtain the commissioner's approval of a coastal boundary survey under provisions for preservation of littoral rights.

Specifies that Texas retains fee title to all land described under provisions for the gulfward boundary of Texas that is occupied by or affected by the placement of the structure.

Rural Veterinarian Loan Repayment Program—H.B. 1684

by Representative Betty Brown et al.—Senate Sponsor: Senator Estes

Although Texas has more cattle, horses, sheep, and goats than any other state, the state lags behind the national average in the number of veterinarians available to care for them. Nationwide, the demand for veterinarians is increasing but the number of students graduating from veterinary programs has remained the same for more than 20 years. The Texas College of Veterinary Medicine estimates that only 3.6 percent of veterinarians in Texas practice in rural areas compared to 10.4 percent nationally. This bill:

Creates the Rural Veterinarian Loan Repayment Program (program), administered by the Office of Rural Community Affairs (ORCA), to provide loan repayment assistance to veterinarians who agree to practice on livestock or deer in rural areas.

Sets forth the eligibility and repayment requirements for the program.

Requires ORCA to adopt rules to administer the program.

Requires ORCA to distribute the rules to each veterinary school in the state.

Laser Sighting Devices for Hunting—H.B. 1805

by Representatives Kuempel and Kleinschmidt—Senate Sponsor: Senator Estes

Current law does not prohibit a person with a physical disability from hunting as long as the person has acquired a hunting license from the state and completed a hunter safety course. The Parks and Wildlife Code, with the exception of Section 62.0055 (Hunting With Laser Sighting Device by Legally Blind Hunter), prohibits hunting with the

aid of an artificial light, including a laser sighting device. The most common hunting method used by people with physical disabilities is to have a hunter's aide take a position behind the hunter with a physical disability to help the hunter aim his or her weapon. This bill:

Authorizes a hunter who is a person with a physical disability to use a laser sighting device during lawful hunting hours in open season when assisted by a person who is without a physical disability, has a hunting license, and is at least 13 years old.

Requires the hunter who is a person with a physical disability to carry proof of the disability.

Reducing Public Expenditures for Erosion and Storm Damage Losses—H.B. 2073

by Representative Bonnen—Senate Sponsor: Senator Hegar

The Coastal Erosion Planning and Response Act (CEPRA) in Section 33.602, Natural Resources Code, directs the commissioner of the General Land Office (commissioner) to develop a coastal erosion response plan in coordination with state and federal agencies and local governments. Current law in Section 33.607(e), Natural Resources Code, allows local governments to adopt plans on a voluntary basis for reducing public expenditures from erosion and storm damage losses to public and private property, including public beaches, by establishing and implementing a building set-back line that will accommodate a shoreline retreat. In addition, under Section 33.605(b), Natural Resources Code, the commissioner may consider the local government's adoption of a building set-back line in determining whether to fund CEPRA projects within the jurisdiction.

Hurricane Ike demonstrated the need for more comprehensive planning at the local level for erosion response planning. This bill:

Requires the commissioner of the General Land Office (commissioner) to consider the plan for reducing public expenditures for erosion and storm damage losses prepared by a local government in determining whether to approve an expenditure from the coastal erosion response account for a study or project conducted on a site located within the jurisdiction of the local government.

Requires a local government to use the coastal erosion response plan published by the commissioner to prepare a plan for reducing public expenditures for erosion and storm damage losses to public and private property, including public beaches.

Authorizes the adoption of rules by the commissioner for the preparation and implementation by a local government of a local plan for reducing public expenditures for erosion and storm damage losses to public and private property.

Designation of Critical Coastal Erosion Areas—H.B. 2074

by Representative Bonnen et al.—Senate Sponsor: Senator Hegar

Current coastal erosion response plan funding decisions are based on a variety of criteria, including, but not limited to, the quality of project proposal, the economic impact of the erosion being addressed, the ability of the local partner to match state funds, the need for the project and geographic location. A cost-benefit analysis is done on the backside of the project to evaluate its economic benefit.

A cost-benefit analysis needs to be done prior to selecting projects to determine where there is the greatest need and the economic impact of the limited funding available. Texas has 367 miles of coastline, much of which will never be developed, either because it is part of a local, state, or federal park or located in a Coastal Resources Barrier Act (CBRA) zone or because development is not economically feasible.

Existing criteria for funding considerations can result in numerous smaller projects that may not have long-term benefits. The designation of critical erosion areas by the commissioner of the General Land Office (commissioner) would provide for more focused funding decisions regarding the allocation of limited resources. An up-front, coast-wide cost-benefit analysis would also contribute to more focused funding decisions. Focused funding will allow for large scale projects that provide longer lasting benefits and protection and also provide economies of scale, maximizing the benefits of state funds. This bill:

Authorizes the commissioner, in order to determine which areas should be designated as critical coastal erosion areas and guide the allocation of resources, to conduct a coast-wide analysis of the costs and benefits of coastal erosion avoidance, remediation, and planning.

Authorizes the analysis to consider the historical erosion rates in an area, the elevation of an area adjacent to the shoreline, the presence of critical infrastructure in an area adjacent to the shoreline, the population density of an area adjacent to the shoreline, the presence of economic activity conducted in an area adjacent to the shoreline, the presence of critical natural resources in an area adjacent to the shoreline, anthropogenic contributions to erosion, and any other factor identified as relevant by the commissioner.

Plugging of Certain Inactive Oil or Gas Wells—H.B. 2259

by Representative Crownover et al.—Senate Sponsor: Senator Duncan

In past sessions and as recently as the 80th Legislature, Regular Session, 2007, multiple pieces of legislation have been filed to address either surface clean-up issues or bonding and financial assurance for oil and gas wells. Both issues were the topics of interim studies. An industry working group, the Inactive Well Study Group, has identified inactive oil and natural gas wells as the nexus for addressing risk to both the Oil Field Clean-up Fund and for surface equipment complaints. The current system already handles "abandoned" or "orphaned" wells. "Active" wells do not pose problems, but "inactive" wells are a broad category with many potential risk factors and possible regulatory loopholes. Limiting changes to this category has now opened the door to discussing solutions in a new context. The complete proposal is intended to protect the Oil Field Clean-up Fund against future liability from inactive wells by raising accountability and responsibility of operations in a manner that balances risk and cost. Current law includes provisions on an oil or gas well operator's duty to plug inactive oil and gas wells. This bill:

Establishes mandatory surface equipment removal requirements and a process through which an operator can qualify for a deadline extension for plugging an inactive well.

Requires an operator to plug an inactive well, excluding bay or offshore wells, on or before the due date for the annual renewal of the operator's organization report submitted to the Railroad Commission of Texas (commission).

Authorizes the commission to grant an extension of the well-plugging deadline if the report includes an affirmation that the organization has complied with surface requirements, including the termination of electrical service, the emptying and purging of all pipes, tanks, and vessels for inactive wells more than five years old but less than 10 years old, and removal of all surface equipment for inactive wells more than 10 years old, subject to exceptions for safety and required maintenance; a statement that the well and associated facilities are in compliance with all commission rules and orders; a statement that the operator has evidence of a good faith claim to a continuing right to operate the well; and certain financial assurances.

Authorizes the commission to revoke a deadline extension for plugging inactive wells if it determines, after notice and an opportunity for a hearing, that the applicant was ineligible for the extension under its rules or orders.

Requires an operator to construct, operate, and maintain an electrical power line serving a well site or other surface facility employed in operations incident to oil and gas development and production in accordance with the National

Electrical Code published by the National Fire Protection Association and adopted by the Texas Commission of Licensing and Regulation under Chapter 1305 (Electricians), Occupations Code.

Fuel Ethanol and Biodiesel Incentive Program—H.B. 2318

by Representatives Swinford and Guillen—Senate Sponsor: Senator Duncan

The large dairy industry has been accused of affecting water quality in certain areas as a result of excess runoff of animal wastes. Animal waste is a pollutant, but the waste contains methane, which is a resource. One step toward solving the problem is to incentivize renewable methane production, which would motivate the dairy industry to collect waste and use it as energy on the farm or sell it for a profit.

The economic analysis of different biofuels shows that biodiesel is not as helpful to the state as renewable methane or fuel ethanol; therefore, the incentive should be decreased for production. This bill:

Adds renewable methane, consisting of methane gas derived from animal waste or an agricultural byproduct, to the fuel ethanol and biodiesel production incentive program, and changes the title of that program accordingly.

Reduces the fee imposed on a biodiesel producer by the Texas Economic Development and Tourism Office (office) from 3.2 cents to 1.6 cents per gallon.

Requires the office to impose a fee on each producer of renewable methane in an amount of 3.2 cents per MMBtu.

Prohibits the office from imposing fees on a producer for more than 18 million MMBtu produced at any one registered plant each fiscal year, and from imposing fees on a producer for renewable methane produced at a registered plant after the 10th anniversary of the date production from the plant begins.

Reduces from 20 cents to 10 cents the amount a biodiesel producer is entitled to receive as a grant for each gallon of biodiesel, and entitles a producer to receive 20 cents per MMBtu of renewable methane produced in each registered plant operated by the producer.

Provides that the renewable methane entitlement lasts until the 10th anniversary of the date production from the plant begins, and that grant amounts may be reduced proportionately if funds in the program account are insufficient.

Prohibits receipt of grants for more than 18 million MMBtu of renewable methane produced at any one registered plant during a fiscal year.

Coastal Erosion Studies and Projects by the General Land Office—H.B. 2387

by Representative Bonnen et al.—Senate Sponsor: Senator Hegar

The provisions of the Coastal Erosion Planning and Response Act (CEPRA) allow the commissioner of the General Land Office (GLO) to undertake coastal erosion studies, demonstration projects, and response projects in coordination with state and federal agencies, local governments, and other qualified project partners. The commissioner of the GLO (commissioner) may fund projects to address storm damage mitigation, post-storm damage assessment, and debris removal and relocation of houses from the public beach. Using this authority, the commissioner implemented a voluntary house relocation program in 2006, providing for reimbursement of removal and relocation expenses up to \$50,000. However, current law specifically prohibits the use of CEPRA funds for the purchase of real property. Some property owners have been reluctant to accept reimbursement of removal and relocation expenses for houses on the beach without compensation for the real property upon which the house is located that has become subject to the public beach easement due to erosion.

Additionally, structures damaged by storms can also become a health and safety issue for the public due to issues like exposed rebar, damaged pilings and septic tanks, or broken concrete. If a structure owner does not agree to remove a structure in the public beach easement, the only alternative for the GLO is to sue the homeowner. This process generally takes years and can be quite expensive for the state and the homeowner. It may also prevent health and safety issues from being addressed.

In areas of the coast where erosion response projects are needed to protect critical public infrastructure, the existence of structures on the beach has prevented or delayed the undertaking of erosion response projects such as beach nourishment projects or shore protection projects due to litigation related to the structures. This bill:

Expands the authority of the GLO to undertake coastal erosion studies and projects in conjunction with qualified project partners.

Removes language prohibiting money in the coastal erosion response account from being used by the GLO for coastal erosion studies, demonstration projects, and response projects pursuant to storm damage mitigation, assessment, and debris removal or to purchase property or reimburse property owners.

Adds to the projects for which the commissioner may determine the percentage of the shared project cost a qualified project partner must pay.

Authorizes the commissioner to undertake more than one erosion response project each biennium that does not require a qualified project partner to pay a portion of the shared project cost if the total cost of projects that do not have a cost share requirement does not exceed one-half of the total amount appropriated to the land office for coastal erosion planning and response.

Duty of the General Land Office to Clean Debris From a Public Beach—H.B. 2457

by Representative Eiland—Senate Sponsor: Senator Mike Jackson

Subchapter C (Maintenance of the Public Beaches), Chapter 61 (Use and Maintenance of Public Beaches), Natural Resources Code, allocates responsibility for cleaning of the public beach areas of this state that are subject to the access rights of the public as defined in the Open Beaches Act in Subchapter B (Access to Public Beaches), Chapter 61, Natural Resources Code. Current law in Sections 61.065 (Duty of Cities) and 61.066 (Duty of County), Natural Resources Code, provides for the duty and responsibility of cities and counties to clean and maintain public beaches within their respective jurisdiction. Subchapter C also provides for reimbursement by the state of a portion of the expenses incurred by local governments for cleaning and maintaining the beaches. In addition, Section 61.067 (Duty of State), Natural Resources Code, imposes on the state the duty and responsibility to clean and maintain all public beaches located within state parks designated by the Texas Parks and Wildlife Department.

Hurricane Ike left an enormous amount of debris on public beaches in the counties of Matagorda, Brazoria, Galveston, Chambers, and Jefferson. The local governments have been overwhelmed in addressing the cost of debris removal from the beach and other areas. In addition, the local governments have been required to address other critical infrastructure needs as well as the needs of storm victims. Although the federal disaster declaration will eventually result in reimbursement by the Federal Emergency Management Agency (FEMA) for the cost of debris removal from the beach, local governments have had difficulty in bearing the responsibility for up-front costs. This bill:

Requires the General Land Office (GLO) to clean, maintain, and clear debris from a public beach that is located in an area designated as a threatened area in a declaration of a state of disaster.

Provides that the duty of the GLO is limited to debris related to the event that is the subject of the disaster declaration.

Production and Taxation of Renewable Diesel Fuel—H.B. 2582

by Representative Gonzalez Toureilles et al.—Senate Sponsor: Senator Hegar

In 2003, the Texas Legislature created a producer incentive program to assist and encourage the production of biodiesel plants in the state. This program uses definitions and guidelines provided by the Agriculture Code. Biodiesel is defined as a diesel-equivalent processed fuel derived from biological sources such as vegetable oils, rendered animal fats, or renewable lipids, for use in an internal combustion engine. This bill:

Redefines "biodiesel," in the Tax Code, to have the meaning assigned to it by Section 16.001(Definitions), Agriculture Code.

Redefines "diesel," in the Tax Code, to include renewable diesel.

Defines "renewable diesel" in the Tax Code.

Provides that the tax imposed does not apply to the volume of water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof.

Redefines "account" and "producer," in the Agriculture Code, to include biodiesel.

Redefines "biodiesel" in the Agriculture Code.

Defines "renewable diesel" in the Agriculture Code.

Abolition of the Texas Environmental Education Partnership Fund—H.B. 2748

by Representative Chisum—Senate Sponsor: Senator Duncan

The Texas Environmental Education Partnership (TEEP) Fund, the Texas Environmental Education Partnership trust fund (TEEP trust fund), and the TEEP Fund Board were established in 1999 to raise money from a diversity of resources to pay for the development, implementation, and continued operation of environmental education projects and activities. These projects, activities, and programs were to include scholarships for educators for professional development in the area of environmental education as well as support of efforts to ensure that textbooks treat environmental issues with a balanced approach and explain the underlying scientific principles.

The TEEP Fund Board has been unable to raise these funds and promote environmental education in the manner intended. As a result, dissolving the TEEP fund, the TEEP trust fund and the TEEP Fund Board is necessary. This bill repeals the statute that created and governed operation of the TEEP Fund, the TEEP trust fund, and the TEEP Fund Board. This bill:

Abolishes the Texas Environmental Education Partnership Fund.

Fuel Mitigation Pilot Grant Program—H.B. 2914

by Representative McReynolds et al.—Senate Sponsor: Senator Nichols

The Education Code establishes the Texas Forest Service (TFS), which is part of The Texas A&M University System. The 77th Legislature, Regular Session, 2001, enacted H.B. 3667, which established the Rural Volunteer Fire Department Insurance Fund administered by TFS. The Rural Volunteer Fire Department Insurance Program provides payment of workers' compensation insurance for volunteer firefighters. This bill:

Authorizes TFS to establish and administer a pilot program under this section to provide grants to fire departments to assist with the costs of fuel mitigation and adopt rules consistent with this section as necessary to implement this section, including rules establishing reasonable criteria and qualifications for the distribution of grant money under the pilot program and a procedure for reporting and processing requests for grant money under the pilot program.

Authorizes TFS to solicit and accept gifts, grants, and donations from any public or private source for purposes of this section.

Sale of Residential and Commercial Leased Lots Near Possum Kingdom Lake—H.B. 3031

by Representative Keffer et al.—Senate Sponsor: Senator Estes

Possum Kingdom Lake (lake) is a reservoir maintained by the Brazos River Authority (authority) that was created by the Morris Sheppard Dam in 1941. The lake is located primarily in Palo Pinto County with 310 miles of shoreline. The authority exists to develop, manage, and protect the water resources of the Brazos River Basin to meet the needs of Texas. However, because of historical circumstances the authority became responsible for residential land management within its boundaries. Approximately 1,500 residential lease sites are managed by the authority on the property surrounding the lake. This bill:

Authorizes the authority to sell the leased tract in whole or in part and other undeveloped strips of real property in the immediate vicinity of the lake.

Requires the authority to suspend for two years any applicable sale efforts to a purchaser and to initiate a tract by tract sale of a leased tract to the then current leaseholder.

Requires that purchases by leaseholders be completed not later than June 30, 2013.

Requires the authority to reserve mineral interests.

Sale of Property at Possum Kingdom Lake by the Brazos River Authority—H.B. 3032

by Representative Keffer—Senate Sponsor: Senator Estes

In 1928, the Brazos River Authority (authority) was created by the State of Texas to conserve, control, and utilize the storm and flood waters of the Brazos River and its tributary streams. Construction on Morris Sheppard Dam, which was needed to control flooding in the area, was completed in 1941, creating Possum Kingdom Lake, primarily located in Palo Pinto County with more than 310 miles of shoreline. The SET Ranch has been a working cattle ranch since the original Texas land grants of 1854. During the acquisition of the property for the construction of the dam, the authority acquired more than 4,298 acres of the SET Ranch land for the reservoir. In 1944, a 576-acre parcel of the purchase was sold by the authority and has since been acquired and rejoined with the SET Ranch. Approximately 880 acres of the original land acquired by the authority from the SET Ranch is located above the 1,000-foot contour line and is surrounded by and contiguous and adjacent to the ranch. This land has no public ground access.

Approximately 130 acres of the 880 acres are leased by the authority to individuals as residential sites and the remaining land, approximately 750 acres, will be offered for sale. This bill:

Provides that the authority is directed to sell all captive property to be sold in accordance with the directives of Section 8502.0132 (Sale of Captive Property at Possum Kingdom Lake), Special District Local Laws Code.

Sets forth procedures and requirements governing the sale, and provides that if the authority seeks to exempt any of the property from the sale, the prospective buyer is required to have notice and has the right to challenge an exemption designation.

Provides that the authority reserves mineral interests, and retains access rights to the property to fulfill its obligations and as it considers necessary for public safety, health, and welfare purposes.

Requires that any sale of a parcel exceeding 100 acres include, as a sale condition, an agreement that the purchaser will place a conservation easement on the parcel within three years of the closing date.

Removal and Disposal of Vessels and Structures in Coastal Waters—H.B. 3306

by Representative Bonnen—Senate Sponsor: Senator Mike Jackson

Hurricane Ike left several hundred abandoned vessels and structures in coastal waters and demonstrated the need for the commissioner of the General Land Office (commissioner) to react quickly to identify, remove, and dispose of those vessels and structures in the most efficient manner possible. The Natural Resources Code authorizes the commissioner to, among other things, protect the coastal waters and adjacent shorelines by preventing spills and discharges of oil and by removing abandoned vessels and structures. This bill:

Authorizes the commissioner to remove and dispose of or contract for the removal and disposal of any vessel or structure described in Subsection (a) (relating to a wrecked, derelict, or substantially dismantled structure or vessel that poses a certain threat) and to recover the costs of removal, storage, and disposal from the owner or operator of the vessel or structure.

Requires the commissioner to give notice to a person who holds a security interest in a wrecked, damaged, or substantially dismantled vessel or structure subject to removal or disposal.

Sets forth the requirements for notice of preliminary report, violation, hearing, compliance with an order, and appeal applicable to a person claiming ownership of a derelict vessel and grants priority to the interest of the state in recovering removal, storage, and disposal costs over the interest of the holder of such a vessel or structure.

Requires the commissioner to make information on abandoned vessels and structures accessible on the General Land Office's Internet website.

Duties of the Texas AgriLife Extension Service—H.B. 3429

by Representative Gutierrez—Senate Sponsor: Senators Van de Putte and Uresti

The Texas AgriLife Extension Service (AgriLife) has been helping economically disadvantaged parents of young children learn practical lessons in basic nutrition via the Expanded Food and Nutrition Education Program since 1969. In 1995, AgriLife expanded its nutrition education program with the Better Living for Texans program, which serves food stamp recipients, applicants, and other approved audiences. This bill:

Requires AgriLife to make a presentation to the commissioner of education, the commissioner of agriculture, and the commissioner of the Department of State Health Services on the Expanded Food and Nutrition Education Program, the Better Living for Texans program, and other similar nutrition education programs as determined by AgriLife.

Requires AgriLife to provide copies of reports on those programs to the Texas Education Agency, the Texas Department of Agriculture, and the Department of State Health Services, and to any council in which representatives from all three of those agencies are members.

Requires AgriLife, not later than December 15 of each even-numbered year, to provide a copy of each report to the legislature.

Gas Utilities and Gas Storage Facilities—H.B. 3346 [VETOED]

by Representative Farabee—Senate Sponsor: Senator Averitt

Currently, a person who is acquiring a natural gas pipeline right-of-way may represent to a property owner that the person has the right to acquire the right-of-way by the use of eminent domain. A change in statute is necessary to prevent a person acquiring pipeline right-of-way and who is not a gas utility as defined by the Utilities Code, from abusing the power of eminent domain. This bill:

Redefines "gas utility" as it relates to the regulation and use of gas pipelines to include as an exercise of eminent domain the representation to a property owner that the person has the right to acquire by eminent domain the pipeline right-of-way.

Clarifies that a gas utility includes a person or business that is under the jurisdiction of the Railroad Commission of Texas and engaged in the transporting or distribution of gas.

Excludes from regulation as a gas utility an electric cooperative or its subsidiary that sells electricity at wholesale and offers storage services to the public for hire if the gas storage facility is primarily used to support the integration of renewable resources.

Prohibits such a gas storage facility from having a working gas capacity of greater than five billion cubic feet.

Powers and Duties of the School Land Board and the Commissioner of the GLO—H.B. 3461

by Representative Orr—Senate Sponsor: Senator Watson

The School Land Board (SLB) is responsible for overseeing the management of public lands, minerals, and other real estate assets dedicated to the Permanent School Fund. Chapters 32 (School Land Board) and 51 (Land, Timber, and Surface Resources), Natural Resources Code, provide the statutory basis for the authority of the School Land Board. The commissioner of the General Land Office (commissioner) is responsible for the administration of public lands under Chapter 51, Natural Resources Code. Subchapter C (Sale of Public School and Asylum Land), Chapter 51, relates to the procedures for the sale of public land. Subchapter E (Sale and Lease of Vacancies), Chapter 51, relates to the procedures for the determination of unsurveyed public land by the commissioner and the preference right of certain parties.

Provisions relating to SLB and General Land Office (GLO) have been changed in recent sessions and real estate practices have advanced, but there are many outdated practices still in statute.

Vacancy statutes in Chapter 51 were updated significantly in the 79th Legislature. GLO has been implementing these new statutes and has found that there are small changes that would improve the current process. This bill:

Redefines "land."

Provides that the SLB is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that unless continued in existence as provided by that chapter, SLB is abolished September 1, 2017.

Adds land acquired on behalf of the permanent school fund and the asylum funds to the definition of "land" for purposes of provisions relating to the SLB, including a duty of SLB and the permissible purposes for which public school land may be traded, and to the definition of "surveyed land" for purposes of provisions relating to the management of public school and asylum land.

Specifies that SLB meets on specified days each month at a time and location to be designated by SLB.

Describes an SLB duty as determining the prices and setting the terms and conditions under which land will be sold.

Specifies that the requirement for the commissioner of the GLO to furnish SLB with a list of land from time to time is as requested by SLB.

Requires SLB to open bids for the sale, lease, or commitment to a contract for development of land on a date on which SLB has a special meeting, in addition to the scheduled board meeting dates.

Changes publication requirements for a notice of sale, lease, or commitment to a contract for development from four daily newspapers to four daily newspapers or other publications, two of which may be Internet-based journals, trade publications, newsletters, or similar news media, that the commissioner considers likely to reach the public interested in responding to the notice.

Authorizes SLB to waive a special fee on land sales to any state agency, board, commission, political subdivision, or other governmental entity.

Requires the commissioner to demand payment of the fee before accepting the bid and completing the transaction, rather than before a lease is issued to the best bidder.

Adds acquiring land for the use and benefit of the permanent school fund to the purposes for which public school land may be traded.

Adds a definition of "sovereign land" for purposes of provisions relating to land, timber, and surface resources.

Removes the determination of the market value of land from provisions relating to the duty of the commissioner to classify and reclassify land.

Authorizes a person to submit a request to purchase land in a form designated by the commissioner, as an alternative to an application, removes the requirement that a person submit a separate application for each tract, and removes provisions relating to the contents of an application, the effective date of a sale, and a required statement on the application to purchase and the notice of award regarding condition of settlement and reservation of minerals.

Requires the commissioner to issue a land award, rather than a notice of award, for each tract of land sold.

Adds late charges and other fees and expenses to the items the nonpayment of which makes the land subject to forfeiture by the commissioner and specifies that this provision addresses a sale of sovereign land.

Removes from the definition of "necessary party" certain redundant language regarding a person who asserts a right to or who claims an interest in land claimed to be vacant.

Changes the deadline for processing a vacancy application to be not later than the 45th day after the date the commissioner accepts certain copies as properly filed by the applicant.

Removes the requirement that an applicant provide evidence to the commissioner to establish the applicant's ownership of all interests in the land surrounding the land claimed to be vacant, and instead requires the commissioner, if the applicant cannot provide the evidence, to investigate the ownership interests of the land claimed to be vacant and the surrounding land to ensure that all necessary parties have been identified and located.

Requires the investigation to conclude not later than the 60th day after the application commencement date.

Requires the commissioner, if the investigation yields evidence that a necessary party may not have been identified and located, to conclude the investigation, appoint an attorney ad litem to identify and locate all necessary parties within a certain time frame and makes conforming changes.

Requires the commissioner to provide the attorney ad litem with all documents submitted by the applicant and the results of the investigation to identify necessary parties, and requires the attorney ad litem to search public land records and other available records to identify and locate necessary parties.

Requires the attorney ad litem to represent the interests of the necessary party, if any necessary party cannot be located.

Repeals Sections 32.103 (Appraised Value of Land), 51.052(a) (relating to the requirement that land sold under the provisions of Subchapter C (Sale of Public School and Asylum Land) be sold without condition of settlement and residence), 51.057 (Delivery of Applications), 51.058 (Method for Making First Payment), 51.059 (Opening Applications), 51.060 (Recordation of First Payments), 51.061 (Collection of Remittances), 51.062 (Disposition of First Payments), 51.063 (Duplicate High Bids), 51.064 (Individual Bids), 51.068 (Fund Accounts), 51.084 (Sale Without Condition of Residence), and 51.086(b) (relating to the requirement that the initial payment on a contract for sale of escheated permanent school land be in cash and not less than one-tenth of the purchase price, and that the purchaser is required to pay the balance of the purchase price in nine equal installments and pay interest on the deferred amount at the rate set by SLB), Natural Resources Code.

Texas Nursery and Floral Advisory Council—H.B. 3496

by Representatives Sid Miller and Christian—Senate Sponsor: Senator Eltife

The Agriculture Code requires florists, nursery owners, nursery dealers, and nursery agents to pay an annual license registration or renewal fee to the Texas Department of Agriculture (TDA). The fee varies depending on the size and location of the florist or nursery and ranges from between \$75 and \$180. The \$180 fee is paid by mobile floral operators who may conduct business in several different locations. This bill:

Establishes the Texas nursery and floral account in the general revenue fund.

Authorizes the money in the account to be used only by TDA to make grants to promote and market the Texas nursery and floral industries and for related administration.

Adds an optional 15 percent increase in annual licensing fees paid by florists, nursery owners, nursery dealers, and nursery agents.

Requires TDA to establish and coordinate the Texas Nursery and Floral Advisory Council, consisting of seven members appointed by the commissioner of agriculture who have each been engaged in the nursery, floral, or landscaping business for at least five years.

Order for Closure of Unregistered Dry Cleaning Facilities—H.B. 3547*by Representative Elkins—Senate Sponsor: Senator Mike Jackson*

The dry cleaner remediation program was created in 2003, establishing environmental standards for dry cleaners and a remediation fund to assist with the assessment and remediation of contamination caused by dry cleaning solvents. Dry cleaning facilities are required to register with the Texas Commission on Environmental Quality (TCEQ) and pay fees on the purchase of perchloroethylene and other dry cleaning solvents. Registration and solvent fees collected by TCEQ are used to fund the dry cleaning facility release fund (fund), which is used to clean up eligible properties contaminated by releases from dry cleaning facilities. TCEQ is authorized to levy penalties against a facility that fails to register, but is not authorized to close the facility. Facilities that fail to register and pay the required fees threaten the financial solvency of the fund and Texas' ability to clean up the releases of dry cleaning solvents. This bill:

Authorizes TCEQ to issue a notice of violation to an owner or operator of a dry cleaning facility or a dry cleaning drop station that is not properly registered with TCEQ.

Requires the notice to inform the owner or operator of the nature of the violation and to state that TCEQ may order the dry cleaning facility or the dry cleaning drop station to cease operation if the violation is not corrected within 30 days after the receipt of the notice.

Authorizes TCEQ to order the dry cleaning facility or dry cleaning drop station to cease operation if the owner or operator does not correct the violation within the prescribed time.

Authority of the State to Acquire, Sell, or Exchange Certain Land—H.B. 3632*by Representative Geren—Senate Sponsor: Senator Averitt*

Current law provides that all property that is donated to the state without being designated for a specific agency or purpose becomes part of the Permanent School Fund. The Permanent School Fund is set up to make money for K-12 education and is not always the best repository for property to be held for the "State of Texas." Current law allows the state to accept title to former Superfund sites from the federal government. However, there is no mechanism to dispose of these sites. Current law also allows a special board of review to be convened to establish a plan of development for a state-owned property. When the state sells the property and no longer has a financial interest, the board of review is required to be convened for any changes to that development plan. The composition of the special board of review includes the members of the School Land Board for the adoption of development plans and for changes to approved plans. This bill:

Authorizes the commissioner of the General Land Office (commissioner), in the absence of any law to the contrary, if the commissioner determines it to be in the best interest of the state, to accept grants, gifts, devises, or bequests, either absolutely or in trust, of money or real or personal property on behalf of the state.

Provides that real property so acquired by the state becomes public free school land unless the person making the grant, gift, devise, or bequest provides that the real property is to be possessed, administered, or used by a particular state agency, board, commission, department, or other particular state entity or provides that it is to be held in some other manner by the state.

Authorizes the commissioner, together with the agency, board, commission, department, or other state entity, if any, designated to possess, administer, or use the real property, if the commissioner determines that the real property acquired by the state by grant, gift, devise, or bequest is not suitable for the purpose for which the grant, gift, devise, or bequest was originally made, to exchange the real property for real property that is suitable for such purposes.

Authorizes the commissioner, if real property acquired by grant, gift, devise, or bequest is not held as part of the permanent school fund or possessed, administered, or used by a particular state agency, board, commission, department, or other particular state entity, to manage that real property or sell or exchange the real property under terms and conditions the commissioner determines to be in the best interest of the state.

Requires that real property be sold in accordance with Section 31.158 (Real Estate Transactions Authorized by Legislature), Natural Resources Code.

Requires that proceeds of the sale that are not required for the management of real property under this subsection be deposited in the Texas farm and ranch lands conservation fund established under Chapter 183 (Conservation Easements), Natural Resources Code.

Authorizes real property acquired to be dedicated by the commissioner to any state agency, board, commission, or department, a political subdivision, or other governmental entity of this state, or the federal government, for the benefit and use of the public in exchange for nonmonetary consideration, if the commissioner determines that the exchange is in the best interest of the state.

Authorizes the commissioner, if it is necessary for the United States government to acquire real property in this state to conduct remedial action at the site listed on the National Priorities List under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), to accept transfer on behalf of the state of the title and interest in the real property from the United States government.

Authorizes the commissioner to sell any title or interest acquired by the state under this section in accordance with Section 31.158, Natural Resources Code.

Requires that proceeds of the sale be deposited in the Texas farm and ranch lands conservation fund established under Chapter 183, Natural Resources Code.

Provides that revisions to the development plan that are requested after the later of the 10th anniversary of the date on which the development plan was promulgated by the special board of review or the date on which the state no longer holds a financial or property interest in the real property subject to the plan are governed by local development policies and procedures.

Requires that the composition of any future special board of review called to consider revision of that order, after issuance of an order establishing a development plan for real property that is not part of the permanent school fund or in which the permanent school fund does not have a financial interest, consist of certain members.

Provides that if an institution of higher education notifies the Texas Historical Commission (THC) in a timely manner (as established by THC's rules) that it protests the proposed designation of a building or land under its control as a landmark, the matter becomes a contested case under the provisions of Sections 12 through 20 of the Administrative Procedure and Texas Register Act.

Use of Hazardous and Solid Waste Remediation Fee Funds—H.B. 3765

by Representative Paxton—Senate Sponsor: Senator Averitt

The 72nd Legislature, Regular Session, 1991, adopted a fee for the sale of lead-acid batteries, proceeds from which is deposited in the hazardous and solid waste remediation fee fund (fund). Proceeds from this fee generate about half of the revenue held in the fund. This bill:

Adds expenses related to lead-acid battery recycling activities to the authorized uses of money collected and deposited to the credit of the hazardous and solid waste remediation fee account.

Prohibits the expenses from exceeding 10 percent of the annually appropriated amount of the fees on batteries collected under the Solid Waste Disposal Act, and specifies that the expenses include expenses for programs for remediation and to create incentives for the adoption of innovative technology in lead-acid battery recycling to increase the efficiency and effectiveness of the recycling process or reduce the negative environmental impacts of the recycling process.

Acceptance of Donated Buildings by the Texas Parks and Wildlife Department—H.B. 3864

by Representative Smithee—Senate Sponsor: Senator Seliger

Currently, an individual or entity wishing to donate a building to the Texas Parks and Wildlife Department (TPWD) must go through a competitive bidding and approval process that increases the costs of the project and may deter the individual or entity from making the donation. This bill:

Authorizes TPWD to accept the donation of a turnkey building project on state land without competitive bidding, provided that TPWD approves the plans and engineering in advance and has supervision over the project.

Wildfire Protection Plan at the Texas Forest Service—H.B. 4002

by Representative Swinford et al.—Senate Sponsor: Senator Duncan

The 77th Legislature, Regular Session, 2001, enacted H.B. 2604, which created the Rural Volunteer Fire Department Assistance Program, administered by the Texas Forest Service (TFS) and funded by an assessment on insurance companies. This bill:

Authorizes TFS to expend an amount not to exceed \$5 million each year from the volunteer fire department assistance fund for staffing and operating costs associated with the preparation and delivery of TFS's statewide wildfire protection plan.

Exemptions from Notification Requirements Within Certain Areas—H.B. 4043

by Representative Callegari—Senate Sponsor: Senator Hegar

A retail public utility must obtain a certificate of convenience and necessity (CCN) to provide water and sewer service for a given area. Current law requires that a seller of real property located within the CCN of a retail public utility other than a water district provide a purchaser with written notice regarding the property's location within a CCN. Certain types of real estate transactions, including the transfer of title to property located within the corporate limits of a municipality, are exempt from this notification requirement. This bill:

Provides that the notice requirement does not apply to the transfer of title to property located within the corporate limits of a municipality that is served by a municipally owned utility.

Marketing of Shrimp and Aquaculture Products—H.B. 4593

by Representative Eiland—Senate Sponsor: Senator Lucio

The Agriculture Code establishes the Texas Shrimp Marketing Assistance Program under the Texas Department of Agriculture (TDA). The purpose of the program is to promote and market the Texas shrimp industry, including both

wild-caught shrimp and shrimp from farms. Texas Parks and Wildlife Department (TPWD) regulates the wild-caught shrimp industry, and TDA regulates shrimp farms. The program is funded by fees collected by TDA and TPWD. As the shrimp farming industry has declined in recent years, it has become more difficult for shrimp farmers to contribute fees to the marketing program. The wild-caught shrimp industry, on the other hand, continues to thrive and benefit from the program. This bill:

Redefines "Texas-produced shrimp" to mean wild-caught shrimp commercially harvested from coastal waters by a shrimp boat licensed by TPWD.

Reduces the number of members on the shrimp advisory committee, from 10 to nine, removing the member of the Texas shrimp aquaculture industry.

Replaces the retail fish dealer with a wild-caught shrimp dealer and the wholesale fish dealer with a wholesale wild-caught shrimp dealer as members of the advisory committee.

Removes a requirement that TDA assess and collect a surcharge on the annual license fee for shrimp aquaculture facilities to fund the Texas shrimp marketing assistance program.

Protection of the Right of the Public to Access and Use Public Beaches—H.J.R. 102

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

Currently, the Texas Natural Resources Code provides for the public's right to free and unrestricted access to state-owned beaches along the gulf coast. This joint resolution:

Proposes an amendment to the Texas Constitution to clarify that the public, individually and collectively, has an unrestricted right to use and a right of ingress to and egress from a public beach, and to establish that this right is dedicated as a permanent easement in favor of the public.

Authorizes the legislature to enact laws to protect the right of the public to access and use a public beach and to protect the public beach easement from interference and encroachments.

Establishes that its provisions do not create a private right of enforcement.

Compliance With Certain Federal Standards in Environmental Enforcement—S.B. 1080

by Senator Mike Jackson—House Sponsor: Representatives Hancock and Burnam

The federal Occupational Safety and Health Act of 1970 (OSHA) requires, in its general duty clause, that employers provide a safe work environment free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Industrial facilities must sometimes balance OSHA's general duty clause with environmental mandates that can be in opposition to one another in certain design or operating situations. Where such regulatory conflicts exist, facility managers and their staff must choose to comply with either an environmental permit/regulation or protect worker health and safety. This bill:

Establishes that an act or event that would otherwise be a violation of a statute, rule, or permit within the jurisdiction of the Texas Commission on Environmental Quality is not a violation if a person can establish that the act or event was caused solely by compliance with the general duty clause of the federal Occupational Safety and Health Act of 1970.

Retrieval and Waste of Game Birds, Game Animals, and Game Fish—S.B. 1121*by Senator Hegar—House Sponsor: Representatives Thibaut and Homer*

The waste of game statute under Chapter 62 (Provisions Generally Applicable to Hunting), Parks and Wildlife Code, allows law enforcement officials to file criminal charges against an individual for harvesting game birds, game animals, or fish and failing to keep the edible portions of the bird, animal, or fish in an edible condition. Additionally, Section 62.011 (Retrieval and Waste of Game), Parks and Wildlife Code, applies only to the person who harvests the game. This bill:

Adds a person who possesses a game bird, game animal, or fish to those who commit an offense if they fail to keep the edible portions of such an animal in edible condition.

Clarifies that a person who, while hunting, kills or wounds a desert bighorn sheep, pronghorn sheep, pronghorn antelope, mule deer, or white-tailed deer and intentionally or knowingly fails to make a reasonable effort to retrieve the animal or fails to keep the edible parts of the animal in edible condition commits an offense if the person acts in violation of provisions relating to the taking of wildlife resources without consent of the landowner, hunting from a vehicle, hunting from a public road or right-of-way, hunting at night, or hunting with the aid of an artificial light.

Defines "edible condition" and "edible parts" for purposes of these provisions.

Requirement to Keep Records of Certain Game Animal Carcasses—S.B. 1122*by Senator Hegar—House Sponsor: Representatives Thibaut and Homer*

Current law exempts a private, noncommercial, family-owned cold storage or processing facility from the requirement that a cold storage or processing facility maintain records of game in the facility. This bill:

Amends the Parks and Wildlife Code provision exempting a private, noncommercial, family-owned cold storage or processing facility from the requirement to maintain records of hunted game placed in such a facility to provide that the facility is not exempt if it is located on a hunting lease and is made available to individuals other than the landowner or the landowner's nonpaying family members or nonpaying guests.

Specifies that the requirement to maintain records of hunted game placed in a cold storage or processing facility do not require the entry or maintenance of a record for a properly tagged deer or antelope carcass that is placed in a private facility.

Clarifies and updates definitions relating to these provisions.

Fees for Certain Licenses Issued by the Texas Parks and Wildlife Department—S.B. 1246*by Senator Mike Jackson—House Sponsor: Representative Eiland*

Previous law, in temporary provisions set to expire September 1, 2009, allowed the Parks and Wildlife Department to increase certain fish dealer and commercial shrimp boat license fees by no more than 10 percent of the September 1, 2002, fee amount. This bill:

Allows the fee to be increased by no more than 20 percent of the September 1, 2002, fee amount and to postpone the expiration of these provisions to September 1, 2013.

Fees for Natural Gas Pipeline Safety Inspections—S.B. 1658

by Senator Averitt—House Sponsor: Representative Crownover

The pipeline safety user fee was created in 2003 to support the pipeline safety program at the Railroad Commission of Texas (railroad commission). The pipeline safety program is funded partially by federal funds and the remainder by general revenue dollars. The first fee was set by rule at 37 cents and this past year it was increased to its current cap of 50 cents. The increase in the fee cap is to fund an exceptional item request to hire additional personnel within the Safety Division to maintain current programs, including damage prevention and safety inspections. Federal funding levels are tied to staffing levels and have been adversely affected by the understaffing of the pipeline safety program. This bill:

Increases from an amount not to exceed 50 cents to an amount not to exceed \$1 the annual inspection fee the railroad commission is authorized to assess each operator of a natural gas distribution system for each service line reported by the system.

Methods for Disposing of Unused Pharmaceuticals—S.B. 1757

by Senator Watson—House Sponsor: Representative Donna Howard

Pharmaceuticals are increasingly finding their way into drinking water supplies. Because of improved technology, chemists are able to identify compounds and metabolites in water, often at levels of parts-per-trillion, and are recognizing emerging contaminants. Currently, guidelines of some health care agencies and hospitals call for disposing of drugs by using the waste water system when they are no longer needed; this is also a common practice for individuals. Typical wastewater treatment does not completely destroy or remove these products, so they pass through treatment plants and into lakes or rivers that may be sources of drinking water downstream. This bill:

Sets out a temporary provision, set to expire January 1, 2011, that requires the Texas Commission on Environmental Quality, not later than December 1, 2010, to submit to the legislature a report on the methods for disposing of unused pharmaceuticals so that they do not enter the wastewater system.

Status of Liquefied Natural Gas Marine Terminals—S.B. 1826

by Senator Huffman—House Sponsor: Representative Bonnen

Freeport Liquefied Natural Gas (LNG) built the first LNG terminal in Texas and the first one built in the United States in the last 30 years. The provision of the Utilities Code that regulates gas companies did not include a provision dealing with LNG marine terminals. The 80th Legislature enacted H.B. 2174 which made it clear that an LNG marine terminal did not become a "gas utility" when it was used to deliver natural gas or LNG from the terminal to the owner of the gas.

The existing statute narrowly describes the operations of the Freeport LNG terminal so that only a terminal which is not in the business of buying and selling gas is covered by the statute. However, there are operational activities which the terminal needs to conduct which have become apparent since last session. This bill:

Establishes that a company, limited liability company, private corporation, or individual operating a natural gas pipeline, a liquefied natural gas pipeline, or an underground storage facility is not a gas utility if such an operator certifies to the Railroad Commission of Texas that the pipeline or underground storage facility is used solely to deliver natural gas or liquefied natural gas that has been stored for export or that is liquefied by the operator for certain purposes.

Provides that those and other conditions that exclude an operator from being a gas utility also apply to the delivery of constituents of natural gas or liquefied natural gas.

Refrigerants in Motor Vehicles—S.B. 2019

by Senator Watson—House Sponsor: Representative Farrar

Texas law, dating from the 1970s, currently prohibits the use of flammable or toxic refrigerants. The new alternative R1234yf is slightly flammable whereas the current R-123a is not flammable. It is the Environmental Protection Agency's evaluation, approval, and setting of usage conditions and process that ensures an alternative refrigerant can be safely used in a vehicle, even if it is slightly flammable like R1234yf.

Manufacturers are transitioning the design of air-conditioning systems for the use of these newer, more environmentally friendly, refrigerants. Consistency across the nation is ideal. In addition to Texas, the following states have laws that prohibit the use of these newer refrigerants: Oklahoma, North Dakota, and Louisiana. Over the past three years, 15 states have removed statutory or regulatory barriers to the use of these refrigerants. This bill:

Creates an exception to the prohibition against the use of any refrigerant that is flammable or toxic in motor vehicle air conditioning equipment if the refrigerant is included in the list published by the United States Environmental Protection Agency as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12 in accordance with federal law.

Violations Committed by Commercial Oyster Boat Crews—S.B. 2379

by Senator Mike Jackson—House Sponsor: Representative Eiland

When illnesses associated with oyster consumption occur, the National Shellfish Sanitation Program (national program) requires states to take immediate action to stop the outbreak. If two or more individuals become ill from oyster consumption, the national program requires states to immediately close the growing area and recall all of the product produced from that area during the time period in question. This bill:

Increases the penalty for taking oysters from restricted areas from a Class B Parks and Wildlife Code misdemeanor to a Class A Parks and Wildlife Code misdemeanor and increases the penalty for a subsequent violation within five years from a Class A Parks and Wildlife Code misdemeanor to a Parks and Wildlife Code state jail felony.

Provides that each person on a vessel licensed as a commercial oyster boat is responsible for such a violation, rather than just the captain.

Contracts for Disposal of Dredged Material—S.B. 2380

by Senator Mike Jackson—House Sponsor: Representative Taylor

Current law is ambiguous and does not specifically authorize the disposal of dredge spoil from the Highland Bayou Diversionary Channel in Placement Area 58A of the Gulf Coast Intracoastal Waterway. This bill:

Authorizes the Texas Transportation Commission (TTC), on request by a political subdivision, to enter into a contract with a political subdivision to dispose of dredged material from the Highland Bayou Diversionary Canal on Placement Area 58 of the Gulf Coast Intracoastal Waterway.

Prohibits TTC from charging a fee for such a disposal.

Interagency Task Force on Economic Growth and Endangered Species—S.B. 2534

by Senator Wentworth—House Sponsor: Representative Cortez

State agencies need a mechanism to provide policy and technical assistance regarding compliance with endangered species laws and regulations to local and regional governmental entities and their communities engaged in economic development activities so that compliance with endangered species laws and regulations is as effective and cost efficient as possible. This bill:

Creates an interagency task force on economic growth and endangered species in order to establish a mechanism for state agencies to provide policy and technical assistance regarding effective and cost-efficient compliance with endangered species laws and regulations to local and regional governmental entities engaged in economic development activities.

Specifies the composition, functions, and duties of the task force; requires it to work in coordination with other state and federal entities; and authorizes it to provide reports on specified topics.

Requires the Office of the Comptroller of Public Accounts to provide administrative support to the task force and authorizes the comptroller to create advisory committees to assist the task force with its work.

Establishes economic development and Endangered Species Act compliance in the Camp Bullis area in Bexar County as an immediate charge for the task force and an assisting advisory committee.

Certificate of Public Convenience and Necessity for Certain Services—H.B. 1295

by Representatives Aycock and Maldonado—Senate Sponsor: Senator Averitt

Under current law, counties and groundwater districts are not required to be notified of a sewer or water notice of public convenience or necessity application. This bill:

Requires the Texas Commission on Environmental Quality to cause notice of a filing of an application for a certificate of public convenience and necessity or for an amendment to a certificate to be given to each county and groundwater conservation district that is wholly or partly included in the area proposed to be certified.

Annual Water Quality Fee—H.B. 1433

by Representative Lucio III—Senate Sponsor: Senator Averitt

Section 26.0291, Water Code, authorizes annual water quality fees imposed by the Texas Commission on Environmental Quality (TCEQ) on each wastewater discharge permit holder for each permit held and on each water user in proportion to the user's water rights. These fees are referred to as the consolidated water quality fee and the water user fee, respectively, and are used broadly to supplement TCEQ's efforts to inspect waste treatment facilities and enforce state laws and agency rules governing waste discharge and waste treatment facilities, including the cost of administering the national pollutant discharge elimination system (NPDES) program; the water resources of this state, including TCEQ's water quality management programs; and any other water resource management programs reasonably related to the activities of the persons required to pay a fee. This bill:

Sets a maximum amount of \$100,000 beginning September 1, 2009, and authorizes TCEQ to adjust that amount, up to a maximum of \$150,000, each subsequent September 1 to reflect the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, published by the United States Bureau of Labor Statistics.

Fees Assessed by the Upper Trinity Groundwater Conservation District—H.B. 1664

by Representative Phil King et al.—Senate Sponsor: Senator Estes

S.B. 1983, enacted by the 80th Legislature, Regular Session, 2007, established the Upper Trinity Groundwater Conservation District, which encompasses Parker, Wise, Hood, and Montague counties. This region of the state is in North Texas and is likely to experience not only home fires, but wildfires as well. Current law does not prohibit the groundwater district from assessing fees against emergency service districts and fire departments when they have to use groundwater to fight fires. This bill:

Exempts from the assessment of production fees groundwater produced within the boundaries of the Upper Trinity Groundwater Conservation District for use by a fire department or emergency services district solely for emergency purposes.

Authorizes the district to adopt rules requiring each involved entity to report to the district on the total quantity of groundwater used or produced each month, as applicable, for emergency and nonemergency purposes.

Authorization of Reuse Water System Contributions and Discharges—H.B. 1922

by Representative Martinez Fischer—Senate Sponsor: Senator Uresti

The use of recycled wastewater by water utility systems across the state for non-potable uses reduces pumping and treatment of potable water. Recycled water has a number of potential uses, but can be used as an economic

generator to bring large-scale businesses to the community utilizing the resource. The San Antonio Water System (SAWS) operates what is believed to be the largest recycled water distribution system in the nation.

Over 100 miles long, the SAWS distribution system is operated as two independent segments because current law prohibits recycled water from separate treatment plants from becoming intermingled and then discharged from multiple outfalls. Although a pipeline interconnection between the two segments exists, it cannot be used to satisfy additional customer demand because of the prohibition. This bill:

Adds provisions to the Water Code that apply only to a wastewater treatment facility operated by an agency of a home-rule municipality with a population of one million or more.

Authorizes the Texas Commission on Environmental Quality (TCEQ) to authorize, at the request of an applicant, a wastewater treatment facility to contribute treated domestic wastewater produced by the facility as reclaimed water to a reuse water system, to contribute reclaimed water into a reuse water system operated by the agency, and to discharge reclaimed water contributed to a reuse water system at any outfall under certain conditions.

Requires TCEQ, for an effluent limitation violation occurring at an outfall permitted for reuse water system discharges by more than one wastewater treatment facility, to attribute the violation to the wastewater treatment facility contributing the reclaimed water causing the violation.

Enforcement of Rules by a Groundwater Conservation District—H.B. 2063

by Representatives Callegari and Creighton—Senate Sponsor: Senator Duncan

Under Chapter 36 (Groundwater Conservation Districts), Water Code, no "person" is allowed to drill or operate a water well within the boundaries of a groundwater conservation district without a permit from the district, unless a permitting exemption applies. Groundwater conservation districts also have authority under Chapter 36 to enforce the statute or their rules implementing the statute in court. This bill:

Clarifies that a groundwater conservation district may enforce its rules against any person, including a governmental entity, by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

Establishes that, in an enforcement action by a district against a governmental entity for a violation of district rules, statutory limits on the amount of fees, costs, and penalties the district may impose constitute a limit of liability of the governmental entity for the violation.

Provides that the saving provisions of the Code Construction Act apply to the bill's amendments to the Water Code.

Market Value of Water Rights—H.B. 2208

by Representatives Gonzales and Lucio III—Senate Sponsor: Senator Hinojosa

The Rio Grande Regional Water Authority (authority) sets the current market value of the water it sells to purchasers in the authority's certificate of convenience and necessity (CCN) every year. The authority calculates current market value per acre-foot of municipal use water after conversion from irrigation use water by using the average of the last three purchases involving a municipal water supplier, a party other than a municipal water supplier, and at least 100 acre-feet of municipal use water, with the municipal priority of allocation. Discounts arising from certain complications in the current formula skew the current market value formula when a purchaser not subject to the CCN wants to purchase water from the authority. This bill:

Requires the Rio Grande Regional Water Authority to exclude from the calculation of current market value of certain water rights any sale between a municipal water supplier and a district if any territory inside the outer boundaries of the district meets certain criteria relating to a CCN.

Lower Neches Valley Authority and the Devers Canal System—H.B. 2666

by Representative Ritter—Senate Sponsor: Senator Williams

The Lower Neches Valley Authority (district) acquired all the property and canal system of the Devers Rice Producers Association (Devers) and their lienholders in consideration for the district's commitments to integrate the Devers Canal System (system), supply additional water to the system, and treat the Devers farmers the same as customers on the district's canal system.

Devers owns property in Chambers, Liberty, and Jefferson counties. Currently the district has jurisdiction over all of Jefferson County and portions of Chambers County and Liberty County. This bill:

Authorizes the district to acquire, own, operate, maintain, and improve the system and to enlarge and extend the canal system east of the Trinity River in Chambers, Liberty, and Jefferson counties.

Authorizes the district to own the water rights and appropriate and divert state water under the permits and contracts previously owned by and acquired from Devers and to distribute, sell, and use state water for any purpose approved by the Texas Commission on Environmental Quality.

Requires the district, before entering into a contract to sell or provide water for any nonirrigation use in Chambers County outside the authority's boundaries that the Chambers-Liberty Counties Navigation District had authority to provide or sell under the navigation district's water rights on May 1, 2009, to send to the navigation district a written notice of intent to sell or provide water for nonirrigation use in Chambers County outside the authority's boundaries and to allow the navigation district 30 days to exercise a right of first refusal to provide the water.

Authorizes the district to enter into a contract described above only if the navigation district fails to properly exercise its right of first refusal or does properly exercise that right and does not enter into a contract to sell or otherwise provide water for the use described by the authority's notice of intent within four months of receipt of the notice.

Transfer of Certain Property to Groundwater Conservation Districts—H.B. 3140

by Representative Gonzalez Toureilles—Senate Sponsor: Senator Hegar

Under current law, if a local agreement exists between the attorney representing the state and law enforcement agencies, property may be transferred to a municipal or county agency or school district to maintain, repair, use, and operate for official purposes, if the property is free of any interest of an interest holder. The agency or school district receiving the property may then also transfer the property to any other municipal or county agency or school district. This bill:

Adds a groundwater conservation district to the entities to which a law enforcement agency is authorized to transfer or loan forfeited or abandoned property, including a vehicle.

Financing of the Proposed Lake Columbia Reservoir Project—H.B. 3861

by Representatives Hopson and McReynolds—Senate Sponsor: Senator Nichols

The Texas Water Development Board (TWDB) has committed funds to the Angelina and Neches River Authority (authority) through the state participation account of the development fund for the construction of the Lake Columbia reservoir project. The authority and TWDB entered into a master agreement setting forth terms under which TWDB is entitled to acquire an interest in the project, not to exceed 50 percent of the total project costs, in order to support the optimum regional development of the project's site. This bill:

Authorizes TWDB, in making any statutory finding on the reasonable expectation that the state will recover its investment for completing the financing of the Lake Columbia reservoir project, to take into account any revenue reasonably expected to be received from a political subdivision not currently under contract with authority to participate in paying the costs of the site acquisition stage of the project, or a political subdivision not currently under contract to purchase a portion of the water to be supplied by the project.

Provides that TWDB is not required to identify a political subdivision from which revenue is reasonably expected to be received at the time the board makes such a finding.

Promotional Items of the Texas Water Development Board—H.B. 4110

by Representative Martinez Fischer—Senate Sponsor: Senator Uresti

The Texas Water Development Board (TWDB) plays an integral part and important role in the management of the state's water resources. TWDB's ability to attract employees and raise awareness about programs is key to achieving the agency's overarching goals. Currently, TWDB does not have specific statutory authority to purchase and sell promotional items to further the purposes and programs of the agency. This bill:

Authorizes the executive administrator of TWDB to purchase, donate, sell, or contract for the sale of items to promote the programs of TWDB, including caps or other clothing, posters, banners, calendars, books, prints, and other items as determined by the board.

Authorizes TWDB to use its Internet website to advertise and sell such items. Money received from the sale of a promotional item is to be deposited in the general revenue fund and reserved for the exclusive use by TWDB to further its purposes and programs.

Conveyance of Imported Water—H.B. 4231

by Representative Ritter et al.—Senate Sponsor: Senator Eltife

According to the 2007 State Water Plan, the population of Texas is projected to more than double by 2060. The demand for water will also increase over this time. One of the potential sources for that new water could be neighboring states with surpluses that are looking to sell water elsewhere.

Current Texas law is silent as to whether a water district can utilize the beds and banks of a state water course to move water that is from a source outside the state. Because the out-of-state water is currently not part of a Texas river basin, the movement would not have any affect on the current flows or water rights holders in any basin. This bill:

Authorizes specified persons or entities that supply water imported from a source located wholly outside the boundaries of Texas, except water imported from a source located in the United Mexican States, to use, with prior

authorization from the Texas Commission on Environmental Quality, the bed and banks of any flowing natural stream in Texas to convey water for use in Texas.

Requires the authorization to allow the diversion of only the amount of water put into a watercourse or stream, less carriage losses, and to include special conditions adequate to prevent a significant impact to the water quality in Texas.

Makes certain provisions relating to interbasin transfers inapplicable to such a transfer.

Repeal of Certain Powers Relating to Use of Right-of-Way Easements—S.B. 1253

by Senator Seliger—House Sponsor: Representative Smithee

S.B. 3, 80th Legislature, Regular Session, 2007, authorized the use of water district or water supply corporation right-of-way easements for certain electric transmission projects. This potentially allows private electric transmission companies to access land without following the normal procedures required of public transmission and distribution utilities. By allowing this use, private transmission companies are able to coordinate with water districts to bypass the certificate of public convenience and necessity (CCN) process established at the Public Utility Commission. The CCN process is designed to guarantee public need, public participation, and proper regulatory oversight when land is authorized to be condemned. This bill:

Repeals the law that authorized certain types of districts or a water supply corporation to allow others to use right-of-way easements for certain energy-related purposes.

Deadlines Relating to the Lake Columbia Reservoir Project—S.B. 1360

by Senator Nichols—House Sponsor: Representative Hopson

Permit to Appropriate State Water No. 4228 (Permit 4228) issued by the Texas Water Commission [a predecessor agency to the Texas Commission on Environmental Quality] to the Angelina and Neches River Authority (ANRA) for its Lake Columbia Regional Water Supply Project contained dates by which ANRA was required to commence and complete construction of the dam and reservoir authorized in the permit. In 2001, the 77th Texas Legislature passed S.B. 1600, which extended the construction commencement date to September 1, 2011, and the completion date to September 1, 2017. Also, S.B. 1362 enacted by the 78th Texas Legislature in 2003, designated the reservoir site as a “site of unique value for the construction of a dam and reservoir on Mud Creek” pursuant to Section 16.051(g) (relating to the legislature designating a site of unique value for the construction of a reservoir), Water Code.

In March 17, 2005, ANRA and the Texas Water Development Board (TWDB) entered into a master agreement to provide for the participation by TWDB in Lake Columbia. Under the master agreement, TWDB became a co-owner of Permit 4228 when it advanced \$1,250,000 to ANRA for work on Lake Columbia. Subsequently, TWDB has committed approximately \$16,000,000 to the project and has a request pending that would increase that amount by another \$48,000,000. This bill:

Sets forth a legislative finding, among other findings, that TWDB has obtained a right and interest in the permit for the proposed Lake Columbia rural water project, and that the deadlines provided by the permit for commencement and completion of construction of the project should be stricken from the permit.

Requires the Texas Commission on Environmental Quality to issue without notice or hearing an amendment to the permit striking the deadlines for commencement and completion of construction of the project.

Use of Reservoirs for Sediment Control—S.B. 1711

by Senator Hegar—House Sponsor: Representative Frost

Current law authorizes a person to construct or maintain, without a water rights permit, a reservoir for the sole purpose of sediment control as part of a surface coal mining operation under the Texas Surface Coal Mining and Reclamation Act. This bill:

Authorizes a person to construct or maintain such a reservoir also for fire or dust suppression.

Service Charges for the Submetering of Water and Wastewater Services—S.B. 2126

by Senator Estes—House Sponsor: Representative Doug Miller

Current law authorizes the owner or manager of a manufactured home rental community to impose a service charge of not more than nine percent of the costs related to submetering of water and waste services allocated to each submetered rental or dwelling unit. This bill:

Extends that authorization to the owner or manager of an apartment house and creates an exception for a resident who resides in an apartment house unit that has received an allocation of certain low income housing tax credits under provisions of the Government Code, or for a person who receives tenant-based voucher assistance under federal law.

Depreciation Applied to Property of Regulated Water Utilities—S.B. 2306

by Senator Williams—House Sponsor: Representative Doug Miller

Current law requires the Texas Commission on Environmental Quality (TCEQ) to fix proper and adequate rates and methods of depreciation, amortization, or depletion of several classes of property of each utility and to carry a proper and adequate depreciation account. This bill:

Requires TCEQ to require the book cost less net salvage of depreciable utility plant retired to be charged in its entirety to the accumulated depreciation account in a manner consistent with accounting treatment of regulated electric and gas utilities in the state.

Eligibility for Funds from the Water Infrastructure Fund—S.B. 2312

by Senator Averitt—House Sponsor: Representative Doug Miller

Current law lacks clarity regarding whether entities eligible for programs administered by the Texas Water Development Board are also eligible to apply for financial assistance through the Water Infrastructure Fund, including nonprofit water supply corporations. This bill:

Updates the definition of "eligible political subdivision" for purposes of the water infrastructure fund under the Texas water assistance program.

Adoption of Certain Rules by the Texas Water Development Board—S.B. 2314

by Senator Averitt—House Sponsor: Representative Callegari

Current law does not specify rulemaking authority regarding supplemental funding resulting from certain federal economic recovery legislation. This bill:

Adds provisions relating to supplemental funding resulting from federal economic recovery legislation.

Authorizes the Texas Water Development Board to adopt rules that specify the manner in which any special capitalization grant under the state water pollution control revolving fund, the safe drinking water revolving fund, or any additional state revolving fund received as a result of federal economic recovery legislation may be used to provide financial assistance to an eligible applicant for public works.

Requires that the rules require that financial assistance be provided for the purposes and on the terms authorized by the federal legislation or agency program under which the additional state revolving fund was established or the special capitalization grant was awarded.

Disposal of Sewage by Certain Boats—S.B. 2445

by Senator Uresti—House Sponsor: Representative Tracy King

Current law prohibits the disposal of boat sewage on inland fresh waters in Texas, and regulates the discharge of boat sewage on a number of designated inland lakes that provide fresh water to local municipalities. This bill:

Expands the areas covered by the prohibition against boat sewage disposal by requiring the Texas Commission on Environmental Quality (TCEQ) to issue rules concerning the disposal of sewage from boats located or operated on "surface water in the state," which is defined in the bill and replaces the more narrowly defined term "fresh water" as it pertains to the regulation of boat sewage.

Authorizes a game warden or peace officer who is certified as a marine safety enforcement officer to enforce a TCEQ rule, and authorizes such an officer to board a boat to inspect the marine sanitation device under certain conditions.

Credentialing of Certain Physicians—H.B. 389

by Representative Zerwas—Senate Sponsor: Senator Watson

Physicians who are newly licensed in Texas or who move to a new community to establish a practice are required to be "credentialled" with the various health insurance plans in that community. While the physician credentialing process may be long, generally, the health insurance plans ultimately approve the credentials of the vast majority of physicians who apply. The delay in the credentialing process puts patients at financial risk because until the plan approves the credentials of the physician, the physician is forced to bill patients treated by the physician as out of network, even though the physician may be with a physician group that has contracted with the health insurance plan. During the 80th Legislature, Regular Session, 2007, H.B. 1594 was enacted to expedite credentialing of physicians joining an existing medical group. However, the term "group" was not defined in that legislation, and thus the legislative intent has not been followed by certain insurers. This bill:

Defines "medical group" to mean a single legal entity owned by two or more physicians, a professional association composed of licensed physicians, or any other business entity composed of licensed physicians as permitted under current statute.

Driver's License Number on Certain Receipts Prohibited—H.B. 523

by Representative Giddings—Senate Sponsor: Senator Fraser

Some retail organizations require customers who wish to return merchandise to provide the person's driver's license number when the return is made, and the retail organization stores this information to keep track of all returns to ensure that there are no suspicious persons making numerous returns. A consumer's driver's license number is often printed on a receipt of sale. Printing a driver's license number on a receipt can potentially lead to someone's identity being stolen. This bill:

Prohibits a person from printing an individual's driver's license number on a receipt that evidences payment for a sale of goods or services and is provided to the individual.

Provides that a person who violates Section 501.101 (Use of Consumer Driver's License or Social Security Number by Merchant or Certain Third Party), Business and Commerce Code, is liable to this state for a civil penalty in an amount not to exceed \$500 for each violation.

Authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring an action to recover the civil penalty.

Prohibits the civil penalty from being imposed for more than one violation that occurs in a month.

Authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring an action to recover the civil penalty imposed under this subsection.

Exception from Pest Control License for Falconers—H.B. 693

by Representative Truitt—Senate Sponsor: Senator Hegar

In the Texas Parks and Wildlife Code, "falconry" is defined as the practice of trapping, possessing, training, or flying a raptor—usually a hawk or kestrel used for hunting purposes. Today, falconry is used as a form of pest control. Under current law, falconry-related bird control is subject to license requirements by the Structural Pest Control Service (SPCS) under the Texas Department of Agriculture. SPCS sets the guidelines for licensure and regulation of Texas pest management professionals. To obtain a pest control license, an individual is required to complete the

licensing and certification requirements for two professional grades—commercial technician and commercial applicator. This bill:

Exempts falconers from SPCS pest control requirements if the falconer holds a valid Texas Parks and Wildlife permit and uses a raptor to control or relocate other birds.

Occupational License Eligibility and Criminal History—H.B. 963

by Representative Guillen—Senate Sponsor: Senator Whitmire

Currently, the Texas Board of Nurses uses a declaratory order process that allows the board to make decisions regarding an applicant's eligibility for licensure based on the applicant's criminal record before the applicant begins training. This legislation applies the same process to other state occupational licensing procedures in order to prevent prospective applicants from training for an occupation for which they may be ineligible due to their criminal background. This bill:

Defines "license" and "licensing authority."

Authorizes a person to request a licensing authority to issue a criminal history evaluation letter regarding the person's eligibility for a license issued by that authority if the person is enrolled or planning to enroll in an educational program that prepares a person for initial license or is planning to take an examination for an initial license, and has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.

Requires that the request state the basis for the person's potential ineligibility.

Provides that a licensing authority has the same powers to investigate a submitted request and the requestor's eligibility that the authority has to investigate a person applying for a license.

Requires a licensing authority, if the licensing authority determines that a ground for ineligibility does not exist, to notify the requestor in writing of the authority's determination on each ground of potential ineligibility.

Requires a licensing authority, if the licensing authority determines that the requestor is ineligible for a license, to issue a letter setting out each basis for potential ineligibility and the authority's determination as to eligibility.

Authorizes a licensing authority to charge a person requesting an evaluation a fee adopted by the authority and requires that fees adopted be in an amount sufficient to cover the cost of administering Subchapter D (Preliminary Evaluation of License Eligibility), Occupations Code.

Authorizes a licensing authority to suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation; an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license; an offense listed in Section 3g (Limitation on Judge Ordered Community Supervision), Article 42.12 (Community Supervision), Code of Criminal Procedure; or a sexually violent offense, as defined by Article 62.001 (Definitions), Code of Criminal Procedure.

Provides that Section 53.0211 (Licensing of Certain Applicants With Prior Criminal Convictions), Occupations Code, does not apply to an applicant for a license that would allow the applicant to provide law enforcement services; public health, education, or safety services; or financial services in an industry regulated by the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit commissioner.

Authorizes a licensing authority to issue a provisional license for a term of six months to an applicant who has been convicted of an offense.

Requires the licensing authority to revoke a provisional license if the provisional license holder commits a new offense; commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, if applicable; or violates the law or rules governing the practice of the occupation for which the provisional license is issued.

Provides that if the licensing authority revokes a provisional license, the provisional license holder is disqualified from receiving the license for which the applicant originally applied.

Requires an applicant who is on community supervision, mandatory supervision, or parole and who is issued a provisional license under this section to provide to the licensing authority the name and contact information of the probation or parole department to which the person reports.

Requires the licensing authority to notify the probation or parole department that a provisional license has been issued.

Requires the probation or parole department to notify the licensing authority if the person's community supervision, mandatory supervision, or parole supervision is revoked during the term of the provisional license.

Maintenance of Roads on Perpetual Care Cemetery Property—H.B. 1031

by Representative Sid Miller—Senate Sponsor: Senator Nelson

Perpetual care cemeteries, which are cemeteries that have had funds established for their maintenance, are licensed by and under the jurisdiction of the Texas Department of Banking. Despite the existence of statutes regulating the maintenance of perpetual care cemetery property, there is confusion regarding whether the cemeteries' roads are required to be maintained. This bill:

Requires the owner of a perpetual care cemetery to state that perpetual care means to maintain, repair, and care for the cemetery, including the roads on cemetery property.

Submission Deadline for Certain Architectural Plans—H.B. 1055

by Representative Parker—Senate Sponsor: Senator Harris

Currently, an architect, interior designer, landscape architect, or engineer responsible for the construction or renovation design of a facility to make it accessible and functional for persons with disabilities is required to submit architectural plans and specifications to the Texas Department of Licensing and Regulation (TDLR) no later than the fifth business day after the date of issuance. Failure to comply results in a fee or administrative penalty. This deadline is burdensome on industry and has resulted in architects being punished for not submitting their plans in a timely fashion. This bill:

Requires the person to submit the plans and specifications not later than the 20th day after the date the person issues the plans and specifications.

Establishment of a Columbarium by a Church—H.B. 1404*by Representative Miklos—Senate Sponsor: Senator Deuell*

A columbarium is a structure built to hold and display multiple urns containing cremated remains. Historically, columbaria have been located in churches; however, it is increasingly common for columbaria to be constructed as freestanding structures. Despite this change in practice, current law prohibits the construction of a freestanding columbarium that is not attached to a church, except in Houston, which makes it difficult for people to have easy access to interment services. This bill:

Removes the population threshold to permit the construction of freestanding columbaria on church ground in municipalities with a population under 1.8 million.

Confidentiality of Certain Frivolous Complaints—H.B. 1411*by Representative Jones—Senate Sponsor: Senator Carona*

Land surveyors in Texas are regulated by the Texas Board of Professional Land Surveying (TBLS). Under current law, a frivolous complaint against a registered professional land surveyor brought before TBLS is public information, except that a license holder's name and other personal information is redacted. However, any complaint against a licensed engineer that was determined to be frivolous or without merit is confidential pursuant to the Texas Engineering Practice Act. Land surveyors and engineers often work for the same firm, but complaints against them are handled differently under current law. This bill:

Provides that for any complaint determined to be frivolous or without merit, the complaint and other enforcement case information related to that complaint are confidential.

Authorizes the information to be used only by TBLS or by its employees or agents directly involved in the enforcement process for that complaint.

Provides that the information is not subject to discovery, subpoena, or other disclosure.

Regulation of Funeral Homes, Cemeteries, and Crematories—H.B. 1468*by Representative Chisum—Senate Sponsor: Senator Deuell*

Under current Texas law, the Texas Funeral Service Commission (TFSC) is the licensing and regulatory agency for funeral directors and embalmers, reciprocal funeral directors and embalmers from other states, funeral establishments, commercial embalming establishments, cemeteries, and crematories. The Texas Department of Banking (TDB) currently regulates perpetual care cemeteries. This bill:

Prohibits the purchaser of a trust-funded prepaid funeral benefits contract from being considered in default under the contract if the purchaser has paid at least 85 percent of the contract price and was unable to pay the balance due to extenuating financial circumstances.

Provides that a funeral provider is not required to provide funeral merchandise or services under a trust-funded prepaid funeral benefits contract unless any remaining balance owed under the contract is paid before the funeral service or the funeral provider agrees in writing to another payment arrangement.

Requires TFSC to ensure that a casket contains identification of the deceased person and to adopt rules to enforce this requirement.

Prohibits a cemetery organization from reselling the right to a burial plot unless the cemetery organization reacquired the right to the burial plot.

Provides that a sanction can be imposed on a cemetery organization that resells the right to a burial plot without first reacquiring the right to the burial plot if the organization does not correct the violation before the 91st day after the date on which it received the notice.

Prohibits a cemetery organization from making more than one interment in a plot unless each owner of the plot consents to the interment.

Authorizes the attorney general, at the request of TFSC, to bring an action for injunctive relief to enforce the bill's rules.

Provides that a person commits a Class C misdemeanor offense if the person interferes with a person's reasonable right to access a cemetery as provided by law.

Provides that a cremation authorization form is not required if the deceased person has left written directions for the cremation of the deceased person's remains and the authorizing agent refuses for any reason to sign a cremation authorization form.

Authorizes the crematory establishment to cremate the deceased without receipt of a signed cremation authorization form if the cremation costs are paid and the authorizing agent provides positive written identification of the deceased person.

Requires the crematory establishment to place an identification item with the cremated remains.

Requires the crematory establishment to remove all recoverable cremation residue from the cremation chamber following cremation and, rather than the person scattering the remains, pulverize any bone fragments to a particle size of one-eighth inch or less.

Authorizes a crematory establishment to accept deceased human remains for refrigeration before it receives authorization to cremate the remains.

Provides that a person commits an offense if he or she carries out a cremation without receipt of written directions for the disposition by cremation.

Provides that a cemetery organization, a business operating a crematory or columbarium, a funeral director, an embalmer, or a funeral establishment is not criminally or civilly liable for cremating the human remains of a deceased person or carrying out the written directions of the deceased person.

Requires that subpoenas issued by TFSC be in compliance with state and federal laws and TFSC rules.

Require TFSC or an administrative law judge employed by the State Office of Administrative Hearings to review each disciplinary proceeding to determine whether the license holder has previously violated the same provision or rule and impose a disciplinary action that is more severe than the prior if the license holder had previously made the same violation.

Authorizes a person whose license has been expired for one year or more to renew the license by retaking and passing the applicable examination, paying any applicable fees, and completing any required continuing education.

Authorizes a person whose license has been suspended to renew the license by paying a renewal fee to TFSC that is twice the normally required renewal fee and any penalty assessed by TFSC.

Authorizes TFSC to reissue a revoked license if the license holder applies following the third anniversary of the date of revocation and meets the other TFSC requirements.

Requires TFSC to by rule prescribe reporting requirements for provisional license holders.

Sets forth certain requirements for the display of adult caskets.

Requires TFSC to notify a cemetery or funeral establishment that to renew the license, the renewal fee must be received no later than the license's expiration date, rather than by September 30.

Prohibits the cemetery or funeral establishment from continuing operations until the renewal fee is paid.

Requires TDB to annually provide TFSC with a list of perpetual care cemeteries.

Requires TFSC to annually register each perpetual care cemetery on that list.

Provides that a perpetual care cemetery is not required to pay a registration fee or renewal fee to TFSC.

Operation and Regulation of Charitable Bingo—H.B. 1474

by Representative Geren—Senate Sponsor: Senator Harris

After the 80th Legislative Session, the House Committee on Licensing and Administrative Procedures was charged with the responsibility of reviewing the Bingo Enabling Act and recommending needed changes to the licensing process, fee structure, and permitted forms of play. This bill:

Requires the Texas Lottery Commission (commission) to prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the standing committees of the senate and house of representatives with primary jurisdiction over charitable bingo a report stating the total amount of adjusted gross receipts reported by licensed authorized organizations.

Sets forth the application process for a license to conduct charitable bingo, and requires that certain information be included in the application.

Sets forth the application process for a license to manufacture and distribute bingo equipment, and requires that certain information be included in the application.

Entitles the commission to conduct an investigation of and to obtain criminal history record information to assist in the investigation of an applicant for or holder of a license issued relating to charitable bingo.

Sets forth provisions relating to the maintenance of a registry of individuals on whom the commission has conducted criminal history background checks and who are approved to be involved in the conduct of bingo.

Sets forth provisions relating to late license renewal.

Limits the number of and length of time for bingo occasions conduct by a licensed organization.

Sets forth requirements relating to the establishment and maintenance of bingo accounts and the retention of operating capital.

Deletes and updates obsolete provisions and inconsistent language in the Act.

Professional Titles for Interior Designers—H.B. 1484

by Representative Pitts—Senate Sponsor: Senator Fraser

The Texas Board of Architectural Examiners regulates the interior design profession. Current law allows only architects and licensed or registered interior designers to use the title "interior designer," creating issues with persons who practice interior design but have either chosen not to be registered or who do not meet educational or other requirements to be eligible for registration. This bill:

Provides that Chapter 1053 (Interior Designers), Occupations Code, does not apply to a person who does not use a business or professional title that uses the phrase "registered interior designer."

Prohibits a person other than an interior designer from representing that the person is a "registered interior designer" by using that title or by using words that imply that the person is a registered interior designer.

Regulation of Health-Related Pest Control—H.B. 1530

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

The Texas Department of Agriculture (TDA) is authorized to license pest control applicators in areas such as agricultural, forest, aquatic, and ornamental and turf pest control. The Texas Department of State Health Services (DSHS) is authorized to license health-related, such as mosquito, pest control pesticide applicators. This bill:

Requires TDA to license pesticide applicators involved in health-related pest control.

Strikes the requirement that DSHS license pesticide applicators involved in the license use category of health-related pest control.

Practice of Veterinarians in Certain Mercantile Establishments—H.B. 1615

by Representative Kuempel—Senate Sponsor: Senator Averitt

Under previous law, restrictions relating to a patient's entrance to a veterinary practice located in space leased from a mercantile establishment were inapplicable to the practice of a veterinarian or the legal successor of the practice if the practice was operating in space that was open and operating before January 1, 1993. This bill:

Makes those restrictions inapplicable to the practice of a veterinarian or the legal successor of the practice if the practice is operating in space that was opened, designed, or engineered in accordance with plans for a specific facility submitted to the State Board of Veterinary Medical Examiners before December 31, 2009.

Examination Requirements for Plumber's License—H.B. 1758

by Representative Thompson—Senate Sponsor: Senator Carona

Currently, the Texas State Board of Plumbing Examiners (TSBPE) issues licenses to tradesman, journeyman, and master plumbers and also registers apprentice plumbers. To sit for the examination required to receive a plumber's

license, an apprentice plumber must demonstrate that he or she has 4,000 hours of work experience, not including hours the individual may have spent in classroom training. This bill:

Requires the applicant, before the applicant is authorized to take the examination, to complete classroom training provided by a TSBPE-approved instructor in a TSBPE-approved training program in the areas of health and safety, applicable plumbing codes, and water conservation for at least 24 hours if the applicant is applying to take a tradesman plumber-limited license holder examination or 48 hours if the applicant is applying to take a journeyman plumber examination.

Authorizes TSBPE, at the applicant's request, to credit an applicant with up to 500 hours of the work experience required before taking an examination if the applicant has completed the classroom portion of a training program approved by the United States Department of Labor, Office of Apprenticeship (office), or provided by a person approved by TSBPE and based on course materials approved by TSBPE.

Authorizes a plumber's apprentice, notwithstanding the classroom training required, to apply for and take an examination for a license as a journeyman plumber or tradesman plumber-limited license holder if the apprentice has received an associate of applied science degree from a plumbing technology program that includes a combination of classroom and on-the-job training and is approved by TSBPE and the Texas Higher Education Coordinating Board.

Authorizes a plumber's apprentice who is enrolled in good standing in a training program approved by the office to take an examination without completing the required classroom training.

Pool-Related Electrical Maintenance—H.B. 1973

by Representative Hamilton—Senate Sponsor: Senator Dan Patrick

Currently, Texas law prohibits persons without a license from performing electrical-related services. The Texas Department of Licensing and Regulation (TDLR) issues a specialty electrical license for certain persons working with residential appliances. Section 1305.003 (Exemptions; Application of Chapter) lists certain exemptions to the requirement to have an electrician's license. This bill:

Amends certain definitions to include a pool-related electrical device.

Provides that this chapter does not apply to the maintenance, alteration, or repair of a pool-related electrical device by, or pool-related electrical maintenance performed by, an employee of a municipality on a pool owned or operated by the municipality.

Requires TDLR to create an exam to test an applicant's knowledge of the installation of residential appliances and pool-related devices.

Regulation of Manufactured Housing—H.B. 2238

by Representative Hamilton—Senate Sponsor: Senator Eltife

The Texas Manufactured Housing Standards Act, a successor to laws dating back to 1969, was enacted by the Texas Legislature in 1979 and was codified in the Occupations Code in 2001, effective June 2003. Over the years, the industry has experienced significant change, as have Texas statutes and the Federal Manufactured Housing Standards Act. This bill:

Authorizes any required action relating to the regulation of manufactured housing to be accomplished by electronic means, if feasible.

Authorize the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs (TDHCA), if the governor by executive order or proclamation declares a state of disaster, to waive the imposition of any fee relating to manufactured housing in the affected area.

Authorizes an applicant for a salesperson's license to apply for a license without having completed the course of instruction if the person successfully completes the course not later than the 90th day after the date of the person's licensure.

Deletes existing text requiring that classes be live and providing that online or other electronic classes are not permitted.

Requires an applicant for an initial installer's license to receive a license on a provisional basis that remains in effect until a sufficient number of installations completed by the person have been inspected by TDHCA and found not to have any identified material violations of TDHCA's rules.

Provides that completion of, rather than attendance at, an approved or administered continuing education course is a prerequisite to renewal of a license.

Provides that any license issued under provisions relating to manufactured housing is valid for two years and that a renewal license expires on the second anniversary of the date the license was renewed.

Requires that when an application for the issuance of a statement of ownership and location for a used manufactured home that is not in a retailer's inventory is filed, a statement from the tax assessor-collector for the taxing unit having power to tax the manufactured home also be filed with TDHCA when the seller files an application for the issuance of a statement of ownership and location for a used manufactured home that is not in a retailer's inventory to also file with TDHCA a statement from the tax assessor-collector.

Requires that the statement from the tax-assessor collector indicate that there are no personal property taxes due on the manufactured home that may have accrued on each January 1 that falls within the 18 months before the date of the sale.

Authorize TDHCA, except with respect to any change in use, servicing of a loan on a manufactured home, or change in ownership of a lien on a manufactured home, but subject to provisions relating to the conversion from personal property to real property, if TDHCA has issued a statement of ownership and location for a manufactured home, to issue a subsequent statement of ownership and location for the home only if all owners reflected in TDHCA's records as having an ownership interest in the manufactured home give their written consent or release their interest, either in writing or by operation of law, or TDHCA has followed the procedures relating issuing a statement of ownership and location to document ownership and lien status.

Prohibits TDHCA, once TDHCA issues a statement of ownership and location, from altering the record of the ownership or lien status, other than to change the record to accurately reflect the proper owner's or lienholder's identity, of a manufactured home for any activity occurring before the issuance of the statement of ownership and location without either the written permission of the owner of record for the manufactured home, their legal representative, or a court order.

Provides that a tax lien on a manufactured home is perfected only by filing with TDHCA the notice of the tax lien on a form provided by TDHCA in accordance with the requirements of Chapter 32 (Tax Liens and Personal Property), Tax Code.

Requires TDHCA to disclose on its Internet website the date of each tax lien filing, the original amount of the tax lien claimed by each filing, and the fact that the amount shown does not include additional sums, including interest, penalties, and attorney's fees.

Provides that a tax lien recorded with TDHCA has priority over another lien or claim against the manufactured home.

Requires that tax liens be filed by the tax collector for any taxing unit having the power to tax the manufactured home.

Provides that a single filing by a tax collector is a filing for all the taxing units for which the tax collector is empowered to collect.

Prohibits an installer from installing a used manufactured home at a location on a site that has evidence of ponding, runoff under heavy rains, or bare uncompacted soil unless the installer first obtains the owner's signature on a form promulgated by the board disclosing that such conditions may contribute to problems with the stabilization system for that manufactured home, including possible damage to that home, and the owner accepts that risk.

Authorizes the director to issue an order directing a manufacturer, retailer, or installer whose license is not revoked, suspended, or subject to an administrative sanction, and who is not out of business to perform the warranty obligation of a manufacturer, retailer, or installer whose license is revoked, suspended or subject to an administrative sanction or who is out of business.

Requires that the manufactured homeowners trust recovery fund be paid directly to a consumer or, at the director's option, to a third party on behalf of a consumer, to compensate a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from violations of certain statutes, rules, or regulations.

Repeals Sections 1201.160 (Proof of Insurance Required for Installer), 1201.2055(b) (relating to requirements for a statement of election under Subsection (a)), and 1201.405(b) (relating to the provision that attorney's fees and costs are limited to 20 percent of the amount of actual damages), Occupations Code.

Regulation of Staff Leasing Services—H.B. 2249

by Representatives Hunter and Harless—Senate Sponsor: Senator Williams

Businesses contract with staff leasing service companies to outsource administrative functions such as human resources and payroll. Employees provided in this arrangement are co-employed by both the staff leasing services company and the contracting business. Current Texas law does not allow for electronic filing through assurance organizations and contains ambiguous language regarding whether the staff leasing arrangement prevents a staff leasing client company from qualifying for tax credits. This bill:

Requires an applicant for an original or renewal license to demonstrate positive working capital in certain amounts.

Requires the applicant to demonstrate the applicant's working capital to the Texas Department of Licensing and Regulation (TDLR) by providing TDLR with the applicant's financial statement.

Requires that the financial statement be prepared in accordance with generally accepted accounting principles, be audited by an independent certified public accountant, and be without qualification as to the going concern status of the applicant.

Requires an applicant that has not had sufficient operating history to have audited financial statements based on at least 12 months of operations to meet the financial capacity requirements and provide TDLR with financial statements that have been reviewed by a certified public accountant.

Authorizes TDLR to take disciplinary action against a license holder failing to maintain the required working capital.

Authorizes the Texas Commission of Licensing and Regulation (TCLR) to adopt rules to permit the acceptance of electronic filings, including electronic filing and other assurance by an assurance organization, qualified and approved by TCLR, that provides satisfactory assurance and documentation of compliance acceptable to TDLR that meets or exceeds certain requirements.

Provides that for the purpose of determining tax credits, grants, and other economic incentives provided by this state or other governmental entities that are based on employment, assigned employees are considered employees of the client and the client is solely entitled to the benefit of any tax credit, economic incentive, or other benefit arising from the employment of assigned employees of the client.

Requires each client to be treated as employing only those assigned employees co-employed by the client, if a grant or the amount of any incentive is based on the number of employees.

Requires each staff leasing services company to provide, on request of a client or an agency of this state, employment information reasonably required by the state agency responsible for the administration of any tax credit or economic incentive and necessary to support a request, claim, application, or other action by a client seeking the tax credit or economic incentive.

Repeals Section 91.001(12) (relating to the definition of "net worth"), Labor Code.

Powers and Duties of the Texas Department of Licensing and Regulation—H.B. 2310

by Representative Kuempel—Senate Sponsor: Senator Williams

This bill amends Chapter 51 (Texas Department of Licensing and Regulation), Occupations Code, to clarify licensing and enforcement provisions and to provide consistency for the Texas Commission of Licensing and Regulation's (TCLR) programs. This consistency results in greater efficiency and lower costs to license holders. The bill includes provisions that enable the Texas Department of Licensing and Regulation (TDLR) to continue improving services to licensees, including allowing payments by credit card and offering inactive status to those licensees who may choose to leave and later reenter a regulated position. This bill:

Defines "advisory board" and "commission."

Applies to any advisory board appointed to advise TCLR or TDLR regarding a program subject to regulation by TDLR.

Authorizes an advisory board member who was appointed by the presiding officer of TCLR with TCLR's approval to be removed from the advisory board by the presiding officer with TCLR's approval on certain grounds.

Provides that the validity of an action of an advisory board is not affected by the fact that it is taken when a ground for removal of a member exists.

Authorizes TCLR to authorize payment of regulatory fees, fines, penalties, and charges for goods and services through an electronic payment method or a credit card issued by a financial institution chartered by a state or the

United States or issued by a nationally recognized credit organization approved by TCLR and to adopt rules as necessary.

Requires the executive director of TDLR (executive director) by rule to prescribe notice procedures for proceedings that provide for notice by certified mail with electronic return receipt.

Authorizes the executive director, if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety, to issue an emergency order to suspend or revoke a license or other authorization issued under a program regulated by TDLR or halt operation of an unsafe facility or unsafe equipment that is subject to regulation by TDLR.

Authorizes the executive director to issue an emergency order with or without notice and hearing as the executive director considers practicable under the circumstances.

Requires the executive director, if an emergency order is issued under this section without a hearing, to set the time and place for a hearing conducted by the State Office of Administrative Hearings (SOAH) to affirm, modify, or set aside the emergency order not later than the 10th day after the date the order was issued.

Authorizes TCLR by rule to prescribe procedures for the determination and appeal of an emergency order issued under this section, including a rule allowing TCLR to affirm, modify, or set aside a decision made by SOAH.

Authorizes TDLR to issue a subpoena as provided by Section 51.3512 (Subpoenas), Occupations Code.

Authorizes TDLR to request and, if necessary, compel by subpoena the production for inspection and copying of records, documents, and other evidence relevant to the investigation of an alleged violation, a law establishing a regulatory program administered by TDLR, or a rule adopted or order issued by TCLR or executive director; and the attendance of a witness for examination under oath.

Authorizes a subpoena under this section to be issued throughout this state and to be served by any person designated by TCLR or the executive director.

Authorizes the executive director to issue a cease and desist order if the executive director determines that the action is necessary to prevent a violation of Chapter 51, Occupations Code, a law establishing a regulatory program administered by TDLR or a rule adopted or order issued by TCLR or the executive director.

Authorizes the attorney general or the executive director to institute an action for injunctive relief to restrain a violation by and to collect a civil penalty from a person that appears to be in violation of or threatening to violate a law establishing a regulatory program administered by TDLR or a rule or order of TCLR or executive director related to the regulatory program.

Authorizes TCLR to deny, revoke, suspend, or refuse to renew a license or authorizes TDLR to reprimand a license holder for a violation, a law establishing a regulatory program administered by TDLR, or a rule or order of TCLR or the executive director.

Requires the executive director by rule to prescribe notice procedures for a contested case under this chapter that provide for notice by certified mail with electronic return receipt.

Provides that a person whose license has been revoked by order of TCLR or the executive director is not eligible for a new license until the first anniversary of the date of the revocation.

Authorizes TCLR to deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by TDLR if TCLR determines that a deferred adjudication makes the person holding or seeking the license unfit for the license.

Requires TCLR, in making a determination, to consider the factors set forth in Sections 53.022 (Factors in Determining Whether Conviction Relates to Occupation) and 53.023 (Additional Factors for Licensing Authority to Consider) and the guidelines issued by TDLR under Section 53.025 (Guidelines), Occupations Code.

Authorizes TCLR to adopt rules to allow a license holder to place a license issued by TDLR on inactive status by submitting, on a form prescribed by TDLR, an application for inactive status to TDLR not later than the expiration date of the license and paying the required fee.

Provides that, except as provided, a person whose license is on inactive status is not required to complete continuing education required under this chapter, a law establishing a program regulated by TDLR, or a rule adopted by TCLR.

Authorizes a person whose license is on inactive status to reapply for inactive status before the expiration date of the license.

Prohibits a person whose license is on inactive status from engaging in any activity for which the license is required.

Prohibits a license holder from employing a person for an activity for which a license is required if the person's license is on inactive status.

Authorizes a person whose license is on inactive status to return the license to active status by applying to TDLR for active status on a form prescribed by TDLR, paying the required fee and providing evidence satisfactory to TDLR that the person has completed the number of hours of continuing education that would otherwise have been required for a renewal of an active license for the preceding license period.

Authorizes TCLR, notwithstanding any other law, to determine that a person is not eligible for a license based on the person's criminal history or other information that indicates that the person lacks the honesty, trustworthiness, and integrity to hold a license issued by TDLR.

Authorizes a person, before applying for a license from TDLR, to request that TDLR issue a letter determining whether the person would be eligible for a license.

Requires a person, to obtain a determination letter, to file a request on a form prescribed by TDLR and pay the required fee.

Provides that TDLR has the same powers to investigate a request filed under this section as TDLR has to investigate a person applying for a license.

Authorize TDLR to require a testing service to notify a person of the results of the person's examination or collect a fee for administering a license examination from a person taking the examination.

Authorizes TCLR by rule to provide for the issuance of a temporary license to an applicant who submits to the executive director an application on a form prescribed by the executive director, meets preliminary qualifications established by TCLR rule, and pays any required fees.

Authorizes the executive director to issue an emergency license to a person who meets eligibility requirements provided by a law establishing a regulatory program administered by TDLR or a rule adopted.

Authorizes the executive director, if the governor declares an extended state of disaster under Section 418.014 (Declaration of State of Disaster), Government Code, to extend the term of an emergency license to an expiration date after the 90th day after the date the license was issued.

Authorizes the emergency license holder to engage in the activities authorized by the type of license only during a period in which a state of disaster has been declared and the following recovery period and in an area designated as a disaster area under Chapter 418 (Emergency Management), Government Code.

Motor Vehicle Retail Installment Transactions—H.B. 2438

by Representative McCall—Senate Sponsor: Senator Carona

As a result of consumer complaints and legislation considered during the 80th Legislature, Regular Session, 2007, the House Committee on Financial Institutions was charged with studying the practices involved in the sale and financing of a motor vehicle, including the financing of negative equity and the retirement of existing debt on a trade-in vehicle. Dealers often finance the negative equity in a consumer's trade-in vehicle into the ultimate lien on a new vehicle. Failure to itemize negative equity has led to varying degrees of misunderstanding by Texas consumers.

A second key issue in the financing of a motor vehicle relates to the retirement of existing debt on the trade-in vehicle. Under current state law, there is no explicit requirement for a retail seller to pay off the outstanding balance on a trade-in vehicle, and some dealers do not timely pay the outstanding liens on vehicles received in a trade deal. Damage to credit reports of innocent consumers is only one of the problems associated with this practice. This bill:

Provides that a retail installment transaction in which a retail buyer purchases a commercial vehicle is only subject to certain provisions of Chapter 348 (Motor Vehicle Installment Sales), Finance Code.

Prohibits a retail seller from accepting a trade-in motor vehicle for a motor vehicle sold under a retail installment contract unless the retail seller provides to the retail buyer, before the buyer signs the contract, a completed disclosure of trade-in equity form.

Requires the Finance Commission of Texas (finance commission) by rule to adopt a standard form for the disclosure of the equity in a retail buyer's trade-in motor vehicle and sets forth the minimum required content of the form adopted by the finance commission.

Provides that the retail seller is solely responsible for the content and delivery of the disclosure form.

Prohibits an assignee of a retail installment contract from being held responsible for a retail seller's failure to comply with provisions relating to the content and delivery of the form.

Provides that an advertised price for a motor vehicle installment sale does not necessarily establish a cash price.

Increases from 15 to 16 the minimum number of days of a month that may be considered a full month for the purpose of computing the time price differential for motor vehicle retail installment contracts with equal monthly successive payments.

Authorizes a retail seller, in connection with a retail installment transaction, to advance money to retire an amount owed against a motor vehicle used as a trade-in or a motor vehicle owned by the buyer that has been declared a total loss by the buyer's insurer, or the retail buyer's outstanding obligation under a motor vehicle lease contract, a credit transaction for the purchase of a motor vehicle, or another retail installment transaction; and finance repayment of that money in a retail installment contract.

Authorizes a retail seller to include the advanced money in the retail installment contract only if it is included as an itemized charge and disclose the advanced money in any matter permitted under the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

Requires a retailer to pay in full the outstanding balance of a vehicle traded in not later than the 25th day after the date that the retail installment contract is signed by the retail buyer and the retail buyer receives delivery of the motor vehicle and the retailer seller receives delivery of the motor vehicle traded in and the necessary and appropriate documents to transfer title from the buyer.

Requires a person who is required to hold a license for motor vehicle installment sales to ensure that each office at which retail installment transactions are made, serviced, held, or collected is licensed or otherwise authorized to make, service, hold, or collect retail installment transactions.

Authorizes the finance commission to adopt rules to enforce Chapter 348 or modify the standard form to conform to the provisions of the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) or a regulation issued under authority of that Act, address any official commentary or other interpretation by a federal agency relating to the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) or a regulation issued under authority of that Act, or address a judicial interpretation by a state or federal court relating to the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) or a regulation issued under authority of that Act.

Authorizes the consumer credit commissioner or the commissioner's representative, during an examination or investigation, to administer oaths and examine any person under oath on any subject pertinent to a matter that the commissioner is authorized or required to consider, investigate, or secure information about under Chapter 348.

Requires a license holder to keep the record of each retail installment transaction until the later of the fourth anniversary of the date of the retail installment transaction or the second anniversary of the date on which the final entry is made in the record.

Towing Companies and Vehicle Storage Facilities—H.B. 2571

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

The Commission on Licensing and Regulation (TCLR) adopts rules for tow truck permits and licensing of towing operators and towing companies, and adopts standards of conduct for towing license and permit holders. A municipality is authorized to regulate fees relating to a nonconsent tow in its jurisdiction. If no governing body regulates the fees, a towing company is authorized to charge a certain fee for a nonconsent tow requested by a peace officer in the jurisdiction, based on the vehicle's gross weight. This bill:

Requires TCLR to adopt rules for denial of applications and permits if the applicant, a partner, principal, officer, or general manager of the applicant, or other license or permit holder has a criminal conviction, or has pleaded guilty or nolo contendere to an offense, before the date of the application, for a felony, or a misdemeanor punishable by confinement in jail or by a fine in an amount that exceeds \$500; violated an order of the commission or executive director, including an order for sanctions or administrative penalties; failed to submit a license or permit bond in an amount established by TCLR; knowingly submitted false or incomplete information on a license or permit application; and filed an application to permit a tow truck previously permitted by a license or permit holder.

Requires TCLR to, by rule, establish fees for private property tows.

Requires TCLR, in adopting rules, to contract for a study that examines towing fee studies and analyzes the cost of towing services.

Requires the Texas Department of Licensing and Regulation (TDLR) to conduct a study on private property towing fees at least once every two years.

Requires the Towing and Storage Advisory Board to provide advice and recommendations to TDLR on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, continuing education requirements, and maximum amounts that may be charged for fees related to private property tows.

Authorizes the governing body of a municipality to regulate fees that may be charged or collected in connection to a nonconsent tow originating in the territory of the political subdivision if the fees are authorized by TDLR rule and do not exceed the maximum amount authorized by TDLR rule.

Authorizes a towing company, in an area in which no political subdivision regulates the fees that may be charged or collected in connection with a private property tow from private property, to charge and collect fees for the tow of a motor vehicle in an amount not to exceed the maximum amount authorized by TDLR rule.

Prohibits a license or permit holder from charging a fee related to a nonconsent tow that is not listed in the schedule most recently submitted to TDLR and authorizes TDLR to require a license or permit holder who has violated certain subsections of the Occupations Code to reimburse the vehicle owner or operator for the charges.

Authorizes the governing body of a municipality or the commissioners court of a county to adopt an identical ordinance or an ordinance that imposes additional requirements that exceed the minimum standards of this chapter but prohibits the governing body or commissioners court from adopting an ordinance that conflicts with this chapter.

Authorizes a parking facility owner, without the consent of the owner or operator of an unauthorized vehicle, to remove or store a vehicle at the owner's or operator's expense if the facility owner provides the owner or operator with certain information concerning where the vehicle is located and the vehicle is in violation of certain sections of the Occupations Code or in or obstructing a driveway or public roadway.

Authorizes an insured towing company, without the consent of an owner or operator of an unauthorized vehicle, to remove and store a vehicle without consent of the owner if, on request, the parking facility owner provides the owner or operator of the vehicle with the vehicle information on the name of the towing company and vehicle storage facility that will be used to remove and store the vehicle and the vehicle is in violation of certain sections of the Occupations Code or obstructing a driveway or public roadway and the removal is approved by a police officer.

Requires a vehicle storage facility that accepts a vehicle under this subchapter to, within two hours after receiving the vehicle, report to the police department of the municipality from which the vehicle was towed or, if the vehicle was towed from a location that is not in a municipality with a police department, to the police department in the municipality in which the vehicle was towed or, if the vehicle was towed in a municipality without a police department, to the sheriff's department of the county in which the vehicle was towed.

Increases, from \$300 to \$1,000, a fine for anyone who, knowingly, intentionally, or recklessly, violates a towing provision.

Provides that a violation of this chapter is a criminal offense subject to certain fines.

Requires the towing company, vehicle storage facility, or parking facility owner or law enforcement agency that authorized the removal of a vehicle, if certain conditions are met, to pay for the removal and storage or reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Requires the towing company, if certain information is found in court, to reimburse the owner or operator of the vehicle an amount equal to an overcharge.

Requires a hearing to be in the justice court having jurisdiction in the precinct in which the motor vehicle was towed.

Provides that if a certain towing company or vehicle storage facility that received the payment fails to furnish to the owner or operator of the vehicle the name, address, and telephone number of the parking facility owner or law enforcement agency that authorized the removal of the vehicle to the owner or operator of the vehicle, the towing company or vehicle storage facility is liable if the court does not find probable cause for removal and storage of the vehicle.

Sets forth the required contents of a notice.

Provides that the 14-day period for requesting a hearing under does not begin until the date on which the towing company or vehicle storage facility provides to the vehicle owner or operator the information necessary for the vehicle owner or operator to complete the material for the request for hearing.

Requires that a hearing under this chapter to be held before the 21st calendar day, rather than 14th working day, after the court receives the request for the hearing.

Requires the court to notify certain persons regarding the date, time, and place of the hearing in a manner provided by Rule 21a (Methods of Service), Texas Rules of Civil Procedure.

Requires that the notice to the towing company and the parking facility owner or law enforcement agency that authorized the removal of the vehicle include a copy of the request for hearing.

Requires TDLR to take certain actions concerning the final judgment award.

Requires the owner or operator of the vehicle to submit a certified copy of the final judgment to TDLR.

Requires a vehicle storage facility to conspicuously post a sign regarding payment.

Prohibits the vehicle storage facility from refusing to release a vehicle based on the inability of the facility to accept payment by electronic check, debit card, or credit card of a fee or charge associated with delivery or storage of the vehicle unless the operator, through no fault of the operator, is unable to accept the electronic check, debit card, or credit card because of a power outage or a machine malfunction.

Regulation and Practice of Engineering—H.B. 2649

by Representatives Wayne Smith and Callegari—Senate Sponsor: Senator Deuell

Section 1001.056 (Construction or Repair of and Plans for Certain Buildings), Occupations Code, provides an exemption to the licensing requirements of the Texas Engineering Practice Act for the construction, repair, or planning of certain buildings if there is no representation that engineering services have been or will be offered to the public. This exception applies to persons erecting, constructing, enlarging, altering, or repairing or drawing plans for private dwellings or certain other types of specified buildings.

In Texas, there are many areas with unique soil characteristics and certain areas that are subject to high winds during storms. Because of this, some construction design standards are more than adequate in some areas of the state, yet problematic in others. There is a need to ensure that persons performing certain activities relating to

windstorm standards and those working with residential slab foundations in expansive soils are licensed and regulated by the engineering board. This bill:

Provides that the exemption provided by Section 1001.056 does not apply to a person or entity that is:

- providing engineering design or inspection services necessary to comply with windstorm certification standards for a residential dwelling under Subchapter F (Property Inspections for Windstorm and Hail Insurance), Chapter 2210 (Texas Windstorm Insurance Association), Insurance Code; or
- providing engineering design relating to constructing, enlarging, altering, or repairing, or drawing plans or specifications for, a residential dwelling slab located on expansive soil that meets the expansive soil classification provisions of the International Residential Code as applied in the jurisdiction in which the residential dwelling is located, unless the construction, enlargement, alteration, repair, or drawing of plans or specifications meets the International Residential Code requirements as applied in the jurisdiction in which the residential dwelling is located.

Provides that this chapter does not prohibit the professional use of the term "fire engineer" by a member of a fire department in a municipality with a population of one million or more that has adopted Chapter 143 (Municipal Civil Service for Firefighters and Police Officers), Local Government Code, and to which Subchapter G (Provisions Applicable to Municipality With Population of 1.5 Million or More and Certain Other Municipalities) of that chapter does not generally apply, who holds the position of fire apparatus operator; and is not otherwise engaged in the practice of engineering.

Prohibits a license holder from being required to provide or hold any additional certification, other than a license issued under this chapter, to seal an engineering plan, specification, plat, or report.

Performance Standards for Plumbing Fixtures—H.B. 2667

by Representatives Ritter and Creighton—Senate Sponsor: Senator Hinojosa

Water is a finite resource that requires careful and proactive management. In Texas, this takes on an even greater meaning given recent and anticipated future population growth, particularly in high-density, urban areas and in times of drought. As such, the Plumbing Manufacturers Institute and water conservation groups have committed to proactive water conservation standards and legislation for plumbing fixtures in Texas and other states. This bill:

Sets forth water-saving performance standards for plumbing fixtures sold in, distributed in, or imported into Texas.

Sets forth revised performance standards for a sink or lavatory faucet or a faucet aerator, a shower head, a urinal and the associated flush valve, if any, and a toilet.

Specifies different water saving performance standards for a urinal and its flush valve and a toilet based on whether the fixture is sold, offered for sale, or distributed in Texas before January 1, 2014, or on or after January 1, 2014.

Requires a manufacturer to supply to the Texas Commission on Environmental Quality (TCEQ) certified test results from a laboratory accredited by the American National Standards Institute verifying that a plumbing fixture meets certain water-saving performance standards in order to have the fixture included on TCEQ's list of fixtures that are certified as meeting such standards.

Makes the above-described performance standards and certification requirements inapplicable to a nonwater-supplied urinal and a plumbing fixture that has been certified by the U.S. Environmental Protection Agency under the WaterSense Program.

Authorizes the governing body of a municipality or county to allow the sale of a urinal or toilet that does not comply with those standards that are only applicable on or after January 1, 2014, if a greater amount of water is required to flush a public sewer system in a manner consistent with public health.

Sets forth a phase-in schedule of water saving performance standards for urinals and toilets.

Prohibits a person from selling, offering for sale, or distributing in Texas a nonwater-supplied urinal for use in this state unless the nonwater-supplied urinal meets certain performance, testing, labeling, and installation requirements set out in the bill.

Redefines "plumbing fixture" and "toilet."

Rescinds TCEQ's rulemaking authority for the marking or labeling of plumbing fixtures, and makes conforming changes to the Water Code.

Veterinary Prescriptions in Emergencies—H.B. 2765

by Representative Anderson—Senate Sponsor: Senator Hegar

During the 79th Legislature, Regular Session, 2005, a provision was added to the Occupations Code to allow a veterinarian to dispense a drug prescribed by another veterinarian in emergency situations. However, there have been and may continue to be incidents in which a pet owner from out of state, traveling with a pet, cannot get the pet's prescription refilled. The provision added by the 79th Legislature does not take into consideration the need for a prescription to be filled by a different veterinarian than the one who originally issued it. This bill:

Authorizes a veterinarian, including a veterinarian licensed in another state, to dispense a drug, other than a controlled substance, prescribed by another veterinarian if failure to dispense the drug could interrupt a therapeutic regimen or cause a patient to suffer; the prescribing veterinarian informs the dispensing veterinarian that the drug is appropriate and necessary for the animal; the quantity of the dispensed drug does not exceed a five-day supply for each animal annually; the annual total of dosage units of drugs dispensed under this subsection is not more than five percent of the total dosage units of drugs the veterinarian dispenses in a year; and the veterinarian maintains records of dispensing activities under this section consistent with State Board of Veterinary Medical Examiners rules.

Power of a Licensing Authority to Take Action Based on Criminal Proceedings—H.B. 2808

by Representative Thompson—Senate Sponsor: Senator West

State law provides that a person who successfully completes a deferred adjudication sentence does not have a conviction for that offense. Some licensing entities treat deferred adjudication the same as a conviction when determining an applicant's eligibility for a license. This bill:

Prohibits a licensing authority from considering a person to have been convicted of an offense if the person entered a plea of guilty or nolo contendere, the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision, and, at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.

Authorizes a licensing authority to consider a person to have been convicted of an offense, regardless of this Act, if, after the consideration of certain factors, the authority determines that the person may pose a continued threat to public safety or that the employment of the person in the licensed occupation would give the person an opportunity to repeat the prohibited conduct.

Provides that this Act does not apply to an applicant for or the holder of a license that authorizes the person to provide law enforcement or public health, education, safety, or certain financial services.

Protections Provided by the Department of Agriculture for Consumers—H.B. 2925

by Representative Herrero et al.—Senate Sponsor: Senator Whitmire

The Texas Department of Agriculture (TDA) administers a wide range of consumer protection programs to safeguard the interests of consumers and to ensure fairness and equity in the marketplace. The objective of TDA's weights and measures consumer protection program is to assure that consumer goods are properly measured, weighed, labeled, and priced. Regulatory activities in the program include inspection and compliance verification of weights and measures devices (fuel pumps, scales, bulk meters, and truck scales), octane testing, price verification, and random and standard package inspections.

A recent TDA investigation, called Operation Spotlight, revealed a significant violation pattern leading to concerns of consumer fraud and deceptive trade practices by a regulated entity. In light of the operation, TDA has identified modifications that should be made in the weights and measures program to improve consumer protection, and has developed an approach focusing the state's resources on the most egregious and high-risk violations. TDA proposes a three-tiered approach to weights and measures regulation by conducting routine inspections/audits using risk-assessed data, conducting inspections based upon consumer complaints, and conducting blitz operations (such as Operation Spotlight) based upon trend analysis.

Additionally, there is no state agency designated and authorized to regulate fuel quality in Texas. The level of fuel quality problem in Texas is unknown at this point. Although the fuel industry performs extensive quality testing, consumers have expressed an interest in a state agency being involved in this area. This bill:

Amends Section 13.002(a), Agriculture Code, to require TDA to enforce the provisions of Chapter 13 (Weights and Measures), Agriculture Code, and supervise all weighing or measuring devices sold or offered for sale in this state.

Authorizes TDA to purchase apparatus as necessary for the administration of this chapter.

Requires TDA to adopt minimum fuel quality standards for motor fuel. TDA standards would be based on fuel quality standards set by the American Society for Testing Materials and the National Institute of Standards and Technology.

Requires TDA to test fuel at gas stations around the state to ensure compliance with minimum standards. TDA would order gas stations with unsatisfactory fuel quality to stop selling fuel until the fuel complied with TDA rules.

Require TDA to set up a toll-free number for public reporting of complaints related to weights and measures.

Provides that refusing to allow TDA to test motor fuel would be an offense.

Exempts weighing or measuring devices from TDA requirements if: it is not cost effective for TDA; it was not feasible with current resources or standards; or it would not substantially benefit consumers.

Updates language on weighing and measuring devices.

Repeals Sections 13.004 (Expenses), 13.102 (Inspection Seal Required Prior to Sale), 13.104 (State Sealers), 13.108 (Powers and Duties of Sealers), 13.109 (Rules Governing Sealers), 13.110 (Inspecting, Testing, and Sealing), 13.111(c) (relating to a person licensed under Subchapter H (Licensed Inspectors of Weighing and Measuring Devices) being required to offer to repair an incorrect weight or measure before taking the device out of service) and (d) (relating to certain actions a person licensed under Subchapter F, G, or H is required to follow

regarding the inspection and repair a weight or measure device), and 13.116 (Use or Sale of Unsealed Weight or Measure), Agriculture Code.

Continuing Education Requirements for Land Surveyors—H.B. 3114

by Representative Flores—Senate Sponsor: Senator Watson

In Texas, professional licensees are required to complete continuing education courses as a condition for license renewal. Under current law, registered professional land surveyors must complete eight hours of professional development courses annually as a condition for renewal of a certificate of registration. However, the continuing education requirement for surveyors in other states is generally higher, often 15-30 hours annually. By increasing the required hours of professional development courses, the Texas Board of Professional Land Surveying (TBLS) could require a portion of those courses to be in areas the board sees as the cause for the most complaint actions, including minimum technical standards, ethics, and jurisprudence. This bill:

Requires that TBLS rules provide that the continuing professional education requirement may be met by completing annually not more than 16 hours of professional development courses or programs.

Disclosure Notice Regarding Real Property—H.B. 3502

by Representative Pickett et al.—Senate Sponsor: Senator Fraser

A seller's disclosure notice to a purchaser of residential real property contains a place for the purchaser's signature and is merely an acknowledgement of receipt by the buyer. The signature provision is useful for sellers in providing evidence that they have complied with the statutory requirement to give such notice. However, with the language added to the notice during the 80th Legislature, Regular Session, 2007, a buyer who signs the notice is also acknowledging that the property complies with smoke detector requirements or that the buyer waives the right to have smoke detectors installed in compliance with statutes relating to fire safety in residential dwellings. As a consequence, many buyers refuse to sign the seller's disclosure notice for fear of giving up this right, which leaves the seller without evidence that the seller has provided the notice required by law. This legislation better protect buyers by not compelling them to waive any right granted under statutes relating to fire safety in residential dwellings and to assist sellers in securing evidence that the notice required by law was provided to the purchaser. This bill:

Reenacts Section 5.008(b), Property Code, as amended by Chapters 448 (H.B. 271), 1051 (H.B. 2118), and 1256 (H.B. 2819), Acts of the 80th Legislature, Regular Session, 2007, and amends it to require that the notice to a buyer of a residential real property be executed and, at a minimum, read substantially similar to a certain form and include information relating to Chapter 766 (Fire Safety in Residential Dwellings), Health and Safety Code.

Deletes existing text providing that the undersigned purchaser hereby acknowledges the property complies with the smoke detector requirements or, if the property does not comply with the smoke detector requirements, the buyer waives the buyer's rights to have smoke detectors installed.

Elevator Safety Standards—H.B. 3628

by Representative Jones—Senate Sponsor: Senator Duncan

Hurricane Ike, which hit the Texas coast in 2008, followed by the severe economic downturn, has put many Texas businesses at risk. At the same time, building owners are facing a costly deadline in 2010 for retrofitting elevators with fire service additions pursuant of the American Society of Mechanical Engineers Code (ASME) A17.3 that was adopted by the Texas Legislature in 1993. Chapter 754 (Elevators, Escalators, and Related Equipment), Health and

Safety Code, requires most existing elevators that travel more than 25 feet to be retrofitted to comply with standards for fire service that was required for new elevators.

Exemptions were allowed for numerous buildings, including qualified historic buildings, and those that house labor unions, trade associations, private clubs, and charitable organizations that have two or fewer floors. This bill:

Requires the executive director of the Texas Department of Licensing and Regulation (executive director) to grant a delay until September 1, 2012, for compliance with the requirements for firefighter's service in ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation and the equipment was not subsequently installed.

Requires the executive director to grant a delay until September 1, 2010, for compliance with the requirements for door restrictors in the ASME Code A17.3.

Standards for Installing Fire Hydrants in Certain Residential Areas—H.B. 3661

by Representative Sylvester Turner—Senate Sponsor: Senator Gallegos

Municipalities with a population of 1,000,000 or more were recently required to adopt standards sufficient to maintain water pressure for service to fire hydrants adequate to protect public safety in residential areas. Some residential areas are not protected by fire hydrants. This bill:

Requires the regulatory authority for a water and sewer utility to adopt standards for installing fire hydrants adequate to protect public safety in residential areas in a municipality with a population of 1,000,000 or more.

Regulation of Prepaid Funeral Benefits—H.B. 3762

by Representative Flynn—Senate Sponsor: Senator Deuell

Currently, prepaid funeral benefits contracts are regulated by three different regulatory departments in an overlapping system, which often creates confusion and additional costs to the industry and consumers. Specifically, the Texas Department of Insurance regulates insurance companies and insurance agencies in their conduct of the business of insurance; the Texas Department of Banking (TDB) regulates entities that hold permits to sell prepaid funerals; and the Texas Funeral Service Commission regulates funeral homes in their performance of funerals. This bill:

Authorizes TDB to require a permit holder that has outstanding contracts for prepaid funeral benefits (benefits) to submit an annual report in the form required by rule of the Finance Commission of Texas (commission).

Requires a permit holder that has outstanding contracts for benefits to maintain records as required by rule of the commission.

Requires TDB to examine the records of each permit holder at least once every 18-month period, except that TDB is authorized to examine a permit holder more frequently for certain reasons.

Authorizes TDB to defer an examination for not more than six months if the banking commissioner of Texas (commissioner) determines that deferment of the examination is necessary for the efficient enforcement of applicable law.

Authorizes any record to be maintained and provided for examination in electronic format if the record is reliable and can be retrieved in a timely manner.

Requires TDB, in consultation with the advisory committee established in this bill, to develop an examination manual that includes procedures intended to reduce the expense of examinations to TDB and the permit holders.

Requires a person, to obtain a permit to sell or continue to sell benefits, to meet certain requirements, including that the person be a certain provider, if the person proposes to offer and sell benefits contracts relating to insurance-funded prepaid funeral benefits and be a funeral provider, if the person proposes to offer and sell benefits contracts relating to trust-funded prepaid funeral benefits.

Requires a permit holder to notify TDB and either the depository of certain money held or the issuer of insurance policy funding contracts of a contract to transfer ownership of the permit holder's business not later than the seventh day after the date the contract is executed.

Requires the proposed transferee, if the proposed transferee is not a permit holder, to file an application for a permit with TDB and requires the commissioner, if the application is complete, to approve or deny the application before the 16th day after the date the application was received.

Prohibits the transfer of benefits contracts of the permit holder that is the transferor from occurring until after the date a permit is issued to the applicant that is the transferee.

Requires a seller, directly or through the seller's designated agent, to provide to each potential purchaser of a benefits contract an informational brochure, approved by TDB, that includes certain information regarding the statutory and regulatory provisions governing such contracts.

Requires TDB to establish and maintain an Internet website that provides information to enable consumers to make informed decisions relating to the purchase of benefits.

Requires that any sales literature or a website that offers or promotes the sale of benefits contracts to the public include a reference or link to the Internet website.

Requires the funeral provider, if a funeral provider designated in the contract to provide benefits is not the licensed seller, to be a party to the contract, agree in the contract to provide those benefits, and by signing the contract, agree to discharge the responsibilities imposed on a funeral provider.

Authorizes a purchaser of a benefits contract to agree to advance funds for all or any portion of the estimated cost of cash advance items included in a benefits contract, the actual cost of which are to be determined by existing prices at the time the items are delivered or provided in connection with at-need performance of the contracted funeral.

Requires that cash advance items included in a benefits contract be clearly grouped together and segregated from benefits in a manner that will permit the average consumer to easily understand that cash advance items are not fixed or guaranteed in price and additional money may be required to fully pay for those items at the time of the funeral.

Requires the funeral provider, after the death of the contract beneficiary, to apply the proportionate part of the trust or insurance policy proceeds received under the contract that is derived from advance payment of cash advance items to the current purchase price for the items.

Authorizes the funeral provider to collect additional money for the difference in exchange for delivering or providing the items as part of the contracted funeral if the proportionate part of contract proceeds is less than the current purchase price for the cash advance items.

Requires the funeral provider to promptly refund the excess amount unless that amount is offset against other amounts due to the funeral provider in connection with the contracted funeral if the proportionate part of contract proceeds is greater than the current purchase price for the cash advance items.

Authorizes modification of the cash advance items after the beneficiary's death under certain conditions.

Deletes existing text requiring that the waiver of the purchaser of a benefits contract to cancel the contract be in a separate writing signed by the purchaser and the seller and not earlier than the 15th day after the date of the purchase of the contract.

Requires the seller to notify TDB of any change in the designation not later than the 10th day after the date of the change.

Sets forth responsibilities of a funeral provider under a prepaid funeral benefits contract and certain requirements for an insurance policy used to fund prepaid funeral benefits

Prohibits the aggregate initial face value of one or more insurance policies issued to fund a benefits contract from exceeding the total contract price by more than five percent unless the purchaser receives a conspicuous written disclosure of the purpose and amount of the excess coverage and how the insurance benefit will be applied at contract maturity and consents in writing to the purchase of the excess coverage.

Authorizes the premiums for an insurance policy that funds benefits to only be collected by a licensed insurance agent appointed by the insurance company issuing the policy and is required to be paid to the insurance company in accordance with the agency agreement between the insurance company and the agent.

Authorizes a purchaser of an insurance-funded benefits contract to cancel the contract before maturity by giving written notice of cancellation to the permit holder.

Provides that cancellation of the contract does not automatically cancel the insurance policy funding the benefits contract.

Prohibits an assignment of the purchaser's ownership of and rights to benefits under the insurance policy to the seller, the funeral provider, or an affiliated trustee from being made irrevocable except under certain conditions.

Requires the commissioner to appoint an advisory committee to review and make recommendations regarding the technical procedures and processes employed by TDB to regulate insurance-funded benefits and monitor compliance of sellers of insurance-funded contracts.

Requires the commission by rule to establish and TDB to maintain a guaranty fund (fund) to guarantee performance by sellers of benefits contracts of their obligations to the purchasers under the provisions governing prepaid funeral trusts.

Requires TDB to maintain separate accounts within the fund for trust-funded contracts and insurance-funded contracts.

Authorizes borrowing between accounts to facilitate prompt and efficient resolution of claims against an account with an insufficient balance under certain conditions.

Requires TDB to assess and collect from a seller not more than \$1 for each insurance-funded contract sold during each calendar year and to deposit the assessments in the insurance-funded contract account within the fund until the amount in the insurance-funded contract account reaches \$1 million.

Increases the membership of the advisory council that supervises the fund's operation and maintenance to include two representatives of the prepaid funeral industry, one of whom represents trust-funded benefits contract sellers and one of whom represents insurance-funded benefits contract sellers.

Provides that a member of the advisory council is not personally liable for damages arising from the member's official act or omission unless the act or omission is corrupt or malicious.

Requires the attorney general to defend an action brought against a member of the advisory council arising from an official act or omission, including an action instituted after the defendant's service with the advisory council has terminated.

Authorizes the commissioner on behalf of the fund, with the advice and consent of the advisory council, to contract with the attorney general for legal services.

Authorizes the advisory council, to pay a claim against the fund when the balance of the trust-funded contract account is insufficient to pay that claim, to assess each permit holder that has outstanding trust-funded contracts an amount, based on the permit holder's proportionate share of the purchaser's deposits on all outstanding trust-funded contracts determined as of the end of the preceding calendar year.

Provides that the payment of a claim or expense from the fund is a matter of privilege and not of right, and a person does not have a vested right in the fund as a beneficiary or otherwise.

Authorizes a claim against the fund to be made by certain individuals.

Authorizes the fund, in addition to uses authorized by Section 154.354 (Use of Fund Earnings), Finance Code, to be used to pay certain losses and expenses.

Prohibits the fund from being required to pay any claimant an amount that exceed the contractual obligations specified by the express written terms of the benefits contract, including certain claims.

Prohibits a claim from being approved for a loss to the extent the claim is insured, bonded, or otherwise covered, protected, or reimburse from other sources.

Provides that a person receiving a benefit from the fund, including a payment of or on account of a contractual obligation or provision of substitute or alternative benefits, is considered to have assigned to the fund the rights under, and any cause of action relating to, the benefits contract to the extent of the benefits received.

Authorizes the commissioner to require a payee to execute a formal assignment of the person's rights and cause of action to the fund as a condition of receiving a right or benefit.

Authorizes the commissioner, on behalf of the fund, to bring an action against any person and to employ and compensate a consultant, an agent, legal counsel, an accountant, or any other person the commissioner considers appropriate to collect a subrogated amount.

Authorizes the commissioner to issue an emergency cease and desist order or an order to seize prepaid funeral accounts and records that takes effect immediately if the commissioner finds that immediate and irreparable harm is threatened to the public or a beneficiary under a benefits contract.

Authorizes the person named in the order to request in writing an opportunity for a hearing to show that the emergency order should be stayed.

Authorizes the commissioner, after the issuance of an emergency order, to initiate an administrative claim for ancillary relief, including a claim for certain costs.

Repeals Section 154.106(c) (relating to requiring the commissioner to follow certain procedures for denying the permit application and for seizing money or records for certain reasons), Finance Code.

Fire Safety Inspections—H.B. 3866

by Representatives Naishtat and Homer—Senate Sponsor: Senator Watson

Many state agencies and local governments, as part of their oversight process, require licensed facilities or regulated entities to undergo periodic fire safety inspections. However, most directives do not specify who can perform these inspections and to what standard they are to be inspected. As a result, many facility operators contract with inspectors who have no specific training or expertise in the fire safety inspection process, and often there is no written standard to guide the property owner or the inspector. This bill:

Authorizes only an individual certified by the Texas Commission on Fire Protection as a fire inspector to conduct a fire safety inspection required by a state or local law, rule, regulation, or ordinance.

Requires that a fire safety inspection required by a state or local law, rule, regulation, or ordinance be conducted in accordance with the most recent local fire code or the most recent fire code adopted by the state fire marshal.

Does not apply to state agency personnel who conduct a life safety code survey of a building or facility in connection with determining whether to issue or renew a license under certain Health and Safety Code or Human Resources Code provisions.

Safety Rules for Certain Pipeline Facilities—H.B. 4300

by Representative Herrero—Senate Sponsor: Senator Williams

Under current law, the operator of a natural gas pipeline or other pipeline is required to hold an annual meeting with emergency responders to provide information relating to pipeline facilities and responding to a pipeline emergency. The law requires a pipeline operator to conduct a meeting in person, which must be set up through mailing a written request, sending a facsimile transmission, or making at least one phone call. If a meeting cannot be conducted in person, an operator must try to conduct the meeting by phone using such methods to set up the meeting. If a meeting cannot be conducted in person or over the phone, the pipeline operator may then send the information to the emergency responder in order to satisfy the requirement to conduct these liaison activities.

Texas adopted the existing statute prior to major changes in federal and state regulatory policy that redefined public awareness requirements of pipeline operators. This bill:

Amends provisions of the Utilities Code and the Natural Resources Code relating to the methods by which natural gas pipeline public awareness meetings are conducted.

Allows an operator of a natural gas pipeline who has been unable to arrange a meeting in person to conduct certain public awareness briefings by one of two methods: holding a telephone conference with the appropriate officials or delivering the community liaison information required to be conveyed by certified mail.

Regulation of Annuities by the Financial Industry Regulatory Authority—H.B. 4492

by Representative Eiland—Senate Sponsor: Senator Ellis

The National Association of Securities Dealers (NASD), responsible for the operation and regulation of the Nasdaq stock market, merged with the New York Stock Exchange's regulation committee to form the Financial Industry Regulatory Authority (FINRA) in 2007. The Securities and Exchange Commission (SEC) recently adopted a rule requiring the registration of indexed annuities. Current state law reflects compliance with the rules of the National Association of Securities Dealers relating to variable annuities. This bill:

Provides that compliance with the conduct rules of the FINRA, rather than NASD, relating to suitability satisfies the requirements for the recommendation of annuities register under the Securities Act of 1933 or rules or regulations adopted under that Act.

Penalty for Use of a Computer for Unauthorized Purpose—S.B. 28

by Senator Zaffirini—House Sponsor: Representative Deshotel

A "zombie" is a computer that, without the knowledge and consent of the computer's owner or operator, has been compromised to give access or control to a program or person other than the computer's owner or operator. A "bot" is defined as computer software that operates as an agent for a user or another computer program or simulates a human activity. "Botnets" are a collection of compromised computers used to perpetuate cybercrime. Currently, botnets are not prohibited from being used. This bill:

Prohibits a person who is not the owner or operator of the computer from knowingly causing or offering to cause a computer to become a zombie or part of a botnet.

Prohibits a person from knowingly creating, using, or offering to use a zombie or botnet for certain uses that the computer owner or operator has not authorized.

Prohibits a person from purchasing, renting, or otherwise gaining control of a zombie or botnet created by another person, or selling, leasing, offering for sale or lease, or otherwise providing to another person access to or use of a zombie or botnet.

Authorizes certain persons to bring a civil action against a person who violates provisions in this bill; and, for each violation, to seek injunctive relief to restrain a violator from continuing the violation, recover damages in an amount equal to the greater of certain amounts, or obtain both injunctive relief and damages.

Authorizes the court to increase an award of damages to an amount not to exceed three times the applicable damages if the court finds that the violations have occurred with such a frequency as to constitute a pattern or practice.

Entitles a plaintiff who prevails in an action to recover court and costs and reasonable attorney's and expert's fees, and other reasonable litigation costs.

Provides that a remedy authorized by this bill is not exclusive but is in addition to any other procedure or remedy provided by other statutory or common law.

Provides that nothing in the provisions of the bill may be construed to impose liability on certain service providers with respect to a violation committed by another person.

Training and Continuing Education for Licensed Electrical Apprentices—S.B. 470*by Senator Carona—House Sponsor: Representative Hamilton*

In 2003, the 78th Legislature, Regular Session, passed the Texas Electrical Safety & Licensing Act (Act). The Act set statewide, enforceable standards for electrical work and required that most electricians working in the industry be properly trained and licensed. Under current law, there are six licensing categories for electricians: master electrician, journeyman electrician, apprentice electrician, master sign electrician, journeyman sign electrician, and apprentice sign electrician. With the exception of apprentice electricians, the Act requires licensed electricians in all categories to obtain the minimum number of training and continuing education hours each year. This bill:

Defines "apprenticeship training program."

Authorizes the Texas Commission of Licensing and Regulation to adopt rules regarding the registration of apprenticeship training programs and to require registered programs to report the names of persons enrolled in the programs.

Requires a license holder who is not enrolled in an apprenticeship training program, to renew an electrical apprentice license, to complete four hours of continuing education annually.

Requires that continuing education courses that satisfy the requirements address safety, the National Electrical Code and state laws and rules that regulate the conduct of license holders under Chapter 1305 (Electricians), Occupations Code.

Criminal History Checks of Employees of In-Home Service or Delivery Companies—S.B. 627*by Senator Carona—House Sponsor: Representative Solomons*

In 2003, the 78th Legislature passed legislation holding in-home service companies and residential delivery companies responsible for performing criminal history background checks on employees whose job duties require entry into another person's residence. Many in-home service or delivery companies require employees to hold certain occupational licenses, which also require a criminal history background check prior to issuance. This bill:

Requires in-home services companies or residential delivery companies, before associating with or hiring an employee in a position whose duties include entry into another person's residence, to obtain criminal history record information of that employee or ascertain that the person holds in good standing an occupational license issued by a licensing authority that has performed a criminal history background check.

Provides a rebuttable presumption of non-negligence of an in-home service company or residential delivery company in a certain action against that company under certain circumstances.

Peace Officers Commissioned by the Texas State Board of Pharmacy—S.B. 650*by Senator Van de Putte—House Sponsor: Representative Hopson*

Currently, the Texas State Board of Pharmacy (TSBP) has the authority to commission peace officers, but they are unable to carry firearms or make arrests. This bill:

Strikes the statutory provision barring employees commissioned as peace officers by TSBP from carrying firearms or making arrests.

Requiring a Sexually Oriented Business to Maintain Identification Records—S.B. 707

by Senators Nelson and Deuell—House Sponsor: Representative Jim Jackson

Sexually oriented businesses currently are not regulated by the state and there is no requirement that they maintain files documenting their employees' ages. A Dallas business that employed a 12-year-old girl as a nude dancer was able to remain in business because there was no state or local law barring such employment. This bill:

Defines "sexually oriented business."

Prohibits a sexually oriented business from employing an individual younger than 18 years of age.

Requires a sexually oriented business to maintain at the business records containing copies of the valid proof of identification of employees or independent contractors working at the business premises.

Sets forth the requirements for a proof of identification satisfying this Act.

Requires a sexually oriented business to retain such records for at least two years after the date the employee or independent contractor ends employment with the business.

Provides that this Act does not apply to an independent contractor who contracts with a sexually oriented business solely to perform repair, maintenance, or construction services.

Authorizes the Texas Workforce Commission, the attorney general, or a local law enforcement agency to inspect the records if there is good reason to believe that an individual younger than 18 years of age is employed or has been employed by the sexually oriented business within the two years preceding the date of the inspection.

Makes it an offense to fail to maintain a record as required by this Act or to knowingly or intentionally hinder an inspection authorized under this Act.

Exemptions from the Texas Structural Pest Control Act—S.B. 768

by Senator Hegar—House Sponsor: Representative Homer

Pesticide regulation is the Texas Department of Agriculture's (TDA) largest and most complex regulatory program and makes up more than half of TDA's total licenses. Applicants for a pesticide applicator license are required to meet education, experience, and examination requirements, in addition to paying license fees. Many activities that do not involve pesticide application are subject to the requirements of the Texas Structural Pest Control Act. Activities such as the removal of an animal using a live trap or the removal of a pest or pest habitat while cleaning a chimney do not necessitate the use of pesticides and therefore should not require a structural pest control license. This bill:

Provides that this chapter, when pest control activities are performed without the use of pesticides, does not apply to the use of a raptor to control or relocate other birds; physical removal of pests or the habitat of pests while cleaning a chimney; use of a live trap to remove an animal from the premises of a residence; agricultural operation, or business structure; removal by mechanical means of weeds or other obstructing vegetation from a sewer, drainage system, body of water, or similar area; or installation, maintenance, or use of a nonpesticidal barrier to remove or prevent infestation by nuisance animals.

Authorizes TDA by rule to exempt an activity from all or part of the requirements of this chapter, other than a requirement under Section 1951.212 (Integrated Pest Management Programs for School Districts), if TDA determines

that the activity presents only a minimal risk of harm to the health, safety, and welfare of the public, the person performing the activity, pets and other domesticated animals, and the environment.

Requires that a business that performs an activity exempted from regulation and that is not otherwise required to hold a license issued under this chapter to provide each customer a written notice, as prescribed by TDA rule, that informs the customer of the customer's rights under the Deceptive Trade Practices-Consumer Protection Act, provides contact information for the consumer protection division of the office of the attorney general, and contains other information required by TDA.

Provides that failure to provide the notice required is a violation of this chapter.

Authorizes TDA to impose an administrative penalty or take any other enforcement action provided by this chapter or the Agriculture Code to deter, restrain, or punish a person who violates Section 1951.059 (Activities Involving Minimal Risk of Harm), Occupations Code.

Provides that an enforcement action by TDA is in addition to remedies and penalties provided by the Deceptive Trade Practices-Consumer Protection Act.

Collection and Solicitation of Donated Goods by Certain Entities—S.B. 776

by Senator Averitt—House Sponsor: Representative Orr

Currently, for-profit companies are authorized to contract with nonprofit entities to solicit donations around the state without having to disclose to the donor what portion of the donation goes to the nonprofit organization. There is no requirement for any disclosure to inform the donor where their donations will go and what percentage of the proceeds will go to the charitable organization. These donations are solicited by way of unattended bins, telephone calls, door-to-door visits, and direct mail. This bill:

Amends Chapter 17 (Deceptive Trade Practices), Business and Commerce Code, by adding Subchapter K (Regulating the Collection or Solicitation by For-Profit Entities of Certain Public Donations).

Prohibits a for-profit entity or individual from using a public donations receptacle to collect donated clothing or household goods and subsequently selling the donated items unless the for-profit entity or individual attaches to the receptacle a notice that is permanently and prominently displayed on the front and at least one side of the receptacle and that contains certain information in English and Spanish, noting whether items will be sold for profit or donated to a charitable organization.

Prohibits a for-profit entity or individual who makes, or directs another person to make, a telephone or door-to-door solicitation requesting that the person solicited donate clothing or household goods from subsequently selling the donated items unless the solicitor provides to each person solicited, before accepting a donation from the person, the appropriate disclaimer.

Prohibits a for-profit entity or individual who mails, or directs another person to mail, a solicitation requesting that the recipient donate clothing or household goods from subsequently selling the donated items unless the solicitor includes with the mailed solicitation the appropriate disclosure.

Prohibits anything in Subchapter K from being construed to limit the authority of a local government to adopt an ordinance or regulation relating to the use of public donations receptacles as a collection point for donated clothing or household goods if the ordinance or regulation is compatible with and equal to or more stringent than a requirement prescribed by Subchapter K.

Provides that a person who violates Subchapter K is liable to this state for a civil penalty in an amount not to exceed \$500 for each violation, provided that each sale of a donated item is considered a separate violation.

Prohibits the total amount of penalties that may be imposed from exceeding \$2,000 for donated items sold during a single transaction.

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

Authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring an action to recover the civil penalty.

Practices by the Texas Real Estate Commission—S.B. 862

by Senator Eltife—House Sponsor: Representative Geren

The Texas Real Estate Commission (TREC) regulates real estate brokers, salespersons, inspectors, and right-of-way agents. Each session, TREC makes an effort to improve and update its statute. This bill:

Requires TREC to adopt rules to charge and collect fees in amounts reasonable and necessary to cover the costs of administering Chapter 1101 (Real Estate Brokers and Salespersons), Occupations Code, including fees to cover the costs of implementing the continuing education requirements for license holders and for other certain applications and activities.

Provides that of each fee for filing an original application and annual renewal for an individual broker license increase collected, \$50 is required to be transmitted to Texas A&M University for deposit in a separate banking account that is authorized to be appropriated only to support, maintain, and carry out the purposes, objectives, and duties of the Texas Real Estate Research Center; \$50 is to be deposited to the credit of the foundation school fund; and \$100, rather than \$150, is to be deposited to the credit of the general revenue fund.

Provides that the fee for the issuance or renewal of a salesperson license is the amount of the fee set under Section 1101.152 (Fees), Occupations Code, and an additional \$20 fee.

Requires an aggrieved person to verify to TREC, if the person is precluded by action of a bankruptcy court from executing a judgment or perfecting a judgment lien, that the person has made a good faith effort to protect the judgment from being discharged in bankruptcy.

Authorizes TREC by rule to prescribe the actions necessary for an aggrieved person to demonstrate that the person has made good faith effort to protect a judgment from being discharged in bankruptcy.

Authorizes TREC to suspend or revoke a real estate broker license or take other authorized disciplinary action if the license holder enters a plea of guilty or nolo contendere to or is convicted of a felony or a criminal offense involving fraud and the time for appeal has elapsed or the judgment or conviction has been affirmed on appeal, without regard to an order granting community supervision that suspends the imposition of the sentence.

Authorizes TREC to authorize the State Office of Administrative Hearings (SOAH) to conduct a hearing, including hearings in contested cases, and enter a final decision in a proceeding under Section 1303.351 (Disciplinary Powers of Commission), Occupations Code.

Provides that all hearings conducted are governed by Chapter 2001 (Administrative Procedure), Government Code.

Entitles a person, if TREC initiates a disciplinary proceeding, to a hearing before SOAH.

Requires TREC by rule to adopt procedures to permit an appeal to TREC from a determination made by SOAH.

Authorizes a registration to be suspended under provisions relating to temporary suspensions under the Texas Timeshare Act without notice or hearing on the complaint if institution of proceedings for a hearing before SOAH is initiated simultaneously with the temporary suspension and a hearing is held.

Regulation of Public Practice of Geoscience—S.B. 940

by Senator Wentworth—House Sponsor: Representative Chisum

Currently, the Occupations Code provides for the regulation of the public practice of geosciences; the science of the earth and its origin and history; the investigation of the earth's environment and its constituent soils, rocks, minerals, fossil fuels, solids, and fluids; and the study of the natural and introduced agents, forces, and processes that cause changes in and on the earth. The process by which a complaint against a geoscientist is handled is not specific enough and does not allow for the sufficient oversight and regulation of the geoscientist profession. There is no procedure for Texas Board of Professional Geoscientists (TBPG) to initiate an investigation, maintain the confidentiality of the investigation, or issue advisory opinions. This bill:

Establishes procedures for complaints brought before TBPG and investigations of such complaints by TBPG.

Authorizes a person who expresses the intent to become a licensed geoscientist to register with the board as a geoscientist in training and requires the board by rule to establish criteria for such registration.

Requires TBPG to issue advisory opinions and establishes guidelines for responding to a request for an opinion, numbering and classifying each opinion, and publishing an annual summary of the opinions on the Internet.

Establishes that TBPG's authority to issue an advisory opinion does not affect the authority of the attorney general to issue an opinion, and makes it a defense to prosecution or to the imposition of an administrative penalty that a person reasonably relied on a written advisory opinion of the board, under certain conditions.

Regulation of Used Automotive Parts Recyclers—S.B. 1095

by Senator Carona—House Sponsor: Representative Thompson

The primary mission of the Texas Department of Transportation (TxDOT) is planning, designing, building, operating, and maintaining the state's transportation system, not the regulation of businesses and occupations. However, under current law, the Texas automotive recycling industry is under the purview of TxDOT.

As noted in the Sunset Advisory Commission (SAC) report to the 81st Legislature on TxDOT, the automotive recycling regulatory program is lost within TxDOT's largest division, which is also charged with titling and registering all vehicles in Texas. The SAC report states that it is the only occupational regulatory function handled by the division and one of the few such programs in TxDOT. TxDOT does not use the administrative enforcement tools provided in statute for the regulation of the industry.

Criminal activities associated with unlicensed and unregulated salvage operations include auto theft, dealing in stolen and damaged auto parts, money laundering, and drug trafficking. In addition, illegitimate salvage yards do not comply with local, state, and federal environmental laws, health and safety codes, or zoning and visual blight ordinances. Unlicensed and unregulated salvage operations harm the legitimate industry as well as the public. This bill:

Transfers the regulation of automotive parts recycling from the Texas Department of Transportation (TxDOT) to the Texas Department of Licensing and Regulation (TDLR).

Creates an automotive parts recycler license, which authorizes a person to own or operate a used automotive parts recycling business or to sell used automotive parts, valid only with respect to the person who applies for the license to operate such a business at the one facility listed on the license.

Creates a used automotive parts employee license, which authorizes an employee of a used automotive parts recycler to acquire a vehicle or used automotive parts or to sell such parts in the scope of the person's employment.

Requires TDLR to inspect each used automotive parts recycling facility at least once every two years and authorizes TDLR to enter and inspect at any time during business hours the place of business of any person regulated by these provisions or any place in which TDLR has reasonable cause to believe that a license holder is in violation of an applicable provision or of a rule or order of the commission or executive director.

Authorizes Texas Commission on Licensing and Regulation (TCLR) to impose an administrative penalty on a person, regardless of whether the person holds a license under these provisions, if the person violates the provisions or a related rule or a rule or order of the executive director or commission.

Authorizes the executive director of TDLR to issue a cease and desist order as necessary to enforce provisions of the bill if the executive director determines that the action is necessary to prevent a violation of such provisions and to protect public health and safety.

Makes it a Class C misdemeanor to violate the licensing requirements, deal in used parts without a license, or employ an individual who does not hold the appropriate license.

Requires the presiding officer of TCLR, with its approval, to appoint a five-member automotive parts recycling advisory board and sets forth provisions relating to the board's composition, terms, powers and duties, compensation, and meeting requirements.

Prohibits a used automotive parts recycler from dismantling or disposing of a motor vehicle unless the recycler first obtains a certificate of authority to dispose of the vehicle, a sales receipt, or an abandoned motor vehicle transfer document for the vehicle or a certificate of title showing that there are no liens on the vehicle or that all recorded liens have been released.

Prohibits TCLR from adopting rules that place certain restrictions on advertising or competitive bidding by a license holder and establishes requirements for periodic and risk-based inspections of each used automotive parts recycling facility by TxDOT.

Requires a used automotive parts recycler to perform certain actions upon acquiring, dismantling, or disposing of a motor vehicle; maintain records of its purchases and an inventory of component parts; retain component parts for a specified period; and, before moving a place of business, register the new location with TDLR.

Requires the recycler to surrender certain vehicle documents or license plates to TxDOT, and authorizes a peace officer at any reasonable time to inspect records kept by the recycler in compliance with these provisions.

Prohibits a used automotive parts recycler from operating heavy machinery in a used automotive parts recycling facility between 7 p.m. of one day and 7 a.m. of the following day if the facility is in a county with a population of at least 2.8 million, unless the conduct is necessary to a sale or purchase by the recycler.

Requires TCLR to adopt rules relating to the new licenses and standards of conduct for license holders not later than January 1, 2010.

Makes the bill effective September 1, 2009, except for provisions relating to the newly created licenses and the enforcement of the act, which take effect September 1, 2010.

Licensing and Regulation of Plumbers—S.B. 1354

by Senator Mike Jackson—House Sponsor: Representative Hamilton

S.B. 1354 is an omnibus bill that amends several subchapters of Chapter 1301 (Plumbers), Occupations Code, which governs the regulation of plumbers. The Texas Plumbing, Air Conditioning, and Mechanical Contractors Association has requested these changes based on concerns that have been identified by the membership as opportunities to improve their practice. This bill:

Redefines "journeyman plumber," "master plumber," "plumbing," "plumbing inspector," and "tradesman plumber-limited license holder."

Provides that a person is not required to be licensed under this chapter to perform plumbing, other than plumbing in conjunction with new construction, repair, or remodeling, on a property that is located inside a municipality that is within a county that has fewer than 50,000 inhabitants, has fewer than 5,000 inhabitants, and by municipal ordinance has authorized a person who is not licensed under this chapter to perform plumbing.

Provides that a person is not required to be licensed under this chapter to perform appliance installation and service work, other than installation and service work on water heaters, that involves connecting appliances to existing openings with a code-approved appliance connector if the person performs the work as an appliance dealer or an employee of an appliance dealer.

Requires a field representative to hold a license as a plumber.

Authorize the Texas State Board of Plumbing Examiners (TSBPE), at the applicant's request, to credit an applicant with a number of hours determined by TSBPE rule against the number of hours of work experience required to take an examination if the applicant has received an associate of applied science degree from a plumbing technology program that includes a combination of classroom and on-the-job training and is approved by TSBPE and the Texas Higher Education Coordinating Board.

Requires a person who holds a certificate of registration under this chapter as a drain cleaner, drain cleaner-restricted registrant, or residential utilities installer, to renew the certificate of registration, to annually complete at least six hours of approved training that includes training in health and safety requirements, TSBPE-approved plumbing codes, and water conservation.

Authorizes a person to receive credit for participating in a training program only if the program is provided by a person approved by TSBPE and according to criteria adopted by TSBPE.

Authorizes TSBPE by rule to exempt certain person from certain requirements if TSBPE determines that the exemption is in the public interest.

Requires a municipality or other political subdivision in this state that requires a plumbing contractor to obtain a permit before the person performs plumbing to by telephone, fax, or e-mail accept permit applications, collect required fees, and issue the required permits.

Requires the municipality or political subdivision, if drawings of proposed plumbing work are required by the municipality or other political subdivision, to specify how permit drawings are to be submitted.

Provides that a person who is required to obtain a permit is not required to pay a plumbing registration fee or administrative fee in a municipality or any other political subdivision.

Requires a plumbing contractor to register, electronically or in person, with a municipality or other political subdivision that requires registration before performing plumbing regulated by the municipality or other political subdivision.

Requires a political subdivision that requires a plumbing contractor to obtain a permit before performing plumbing in the political subdivision to verify through TSBPE's Internet website, or by contacting TSBPE by telephone, that the plumbing contractor has on file with TSBPE a certificate of insurance.

Authorizes only the affected municipality, if the boundaries of a municipality and another political subdivision overlap, to perform a plumbing inspection and collect a permit fee.

Deletes existing text prohibiting the standard used in the plumbing inspection from being less restrictive than the standard used by the municipal utility district.

Licensing and Regulation of Plumbers and Certain Fire Protection Specialists—S.B. 1410

by Senator Mike Jackson—House Sponsor: Representative Gutierrez

S.B. 1410 amends Chapter 1301 (Plumbers), Occupations Code, relating to the licensing and regulation of plumbers. Texas law requires any person working with plumbing that carries potable water to be certified as a plumber with the Texas State Board of Plumbing Examiners (TSBPE). In recent years, owners of single-family or two-family residences have begun installing sprinkler systems much like the ones in large multifamily residences and commercial buildings. The state has placed a priority on ensuring that only individuals who are licensed as trained plumbers be allowed to work on potable water pipes in order to protect the public water supply. Currently, these systems are installed by service people working with potable water who are not certified plumbers. This bill:

Redefines "drain cleaner," "drain cleaner-restricted registrant," "journeyman plumber," "master plumber," "multipurpose residential fire protection sprinkler specialist," "plumber's apprentice," "plumbing inspector," "residential utilities installer," and "tradesman plumber-limited license holder" and defines "responsible master plumber."

Requires that a written proposal, invoice, or contract relating to plumbing services performed by or under the direction of a licensed plumber contain the name and license number of the responsible master plumber and the name, mailing address, and telephone number of TSBPE.

Prohibits a person, other than a responsible master plumber, from engaging in plumbing unless the person holds the proper license, registration, or endorsement required and the person's work is supervised and controlled by a person licensed under Chapter 1301, Occupations Code.

Prohibits a person from acting as a responsible master plumber unless the person holds the appropriate license and meets the requirements for a responsible master plumber Chapter 1301, Occupations Code.

Requires a person that advertises or otherwise offers to perform or provide plumbing to secure the services of a responsible master plumber.

Requires TSBPE to issue a license or endorsement as a master plumber, journeyman plumber, plumbing inspector, tradesman plumber-limited license holder, medical gas piping installation endorsement holder, water supply protection specialist, or multipurpose residential fire protection sprinkler specialist to a person who demonstrates the fitness, competence, and qualifications to receive the license or endorsement by passing a uniform, reasonable examination.

Authorizes a plumbing inspector who meets the requirements of TSBPE to hold a medical gas endorsement and inspect medical gas piping installations.

Prohibits a person from engaging in the installation of a multipurpose residential fire protection sprinkler system that uses a single piping system to provide potable water for fire protection sprinklers and for domestic plumbing fixtures and appliances unless the person meets certain requirements.

Requires TSBPE to issue an endorsement as a multipurpose residential fire protection sprinkler specialist to a person who holds the license; applies to TSBPE on a form prescribed by TSBPE; pays a fee set by TSBPE; presents evidence satisfactory to TSBPE of successful completion of a training program approved by TSBPE that provides the training necessary for the proper installation of a multipurpose residential fire protection sprinkler system as required by the applicable codes and standards recognized by the state; and passes an examination required by TSBPE.

Provides that an endorsement is valid until the third anniversary of the date of issuance and is authorized to be renewed on compliance with any requirements prescribed by TSBPE rule.

Authorizes a person who holds an endorsement to represent to the public that the person is a multipurpose residential fire protection sprinkler specialist.

Provides that notwithstanding any other law, a person who holds an endorsement is not required to hold a license or registration issued by another state agency in order to install a multipurpose residential fire protection sprinkler system.

Authorizes a plumbing inspector who meets the requirements of TSBPE to inspect a multipurpose residential fire protection sprinkler installation.

Requires a person, when the person is issued a master plumber's license, to provide TSBPE with a certificate of insurance that meets certain requirements before the person works as a responsible master plumber.

Requires TSBPE to revoke, suspend, deny, or refuse to renew a license, endorsement, or registration or reprimand a holder of a license, endorsement, or registration for a violation Chapter 1301, Occupations Code, an order issued by TSBPE, or a rule of TSBPE.

Authorizes the executive director of TSBPE (executive director) to issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation and to protect public health and safety.

Prohibits a municipality, notwithstanding any other provision of state law, after January 1, 2009, from enacting an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire sprinkler protection system in a new or existing single-family or two-family dwelling.

Authorizes a municipality to adopt an ordinance, bylaw, order, or rule allowing a multipurpose residential fire protection sprinkler specialist or other contractor to offer, for a fee, the installation of a fire sprinkler protection system in a new single-family or two-family dwelling.

Authorizes a multipurpose residential fire protection sprinkler specialist to install a multipurpose residential fire protection sprinkler system in a new or existing single-family or two-family dwelling in a municipality.

Requires TSBPE to collaborate with the state fire marshal in adopting rules necessary to implement Section 1301.3565 (Endorsement: Multipurpose Residential Fire Protection Sprinkler Specialist), Occupations Code, as added by this Act.

Regulation of Certain Lenders and Debt Management Counselors—S.B. 1620

by Senator Wentworth—House Sponsor: Representative Paxton

The Finance Commission of Texas (commission) is the oversight body of the Office of the Consumer Credit Commissioner (CCC). Currently, the commission is not authorized to investigate or audit property tax lenders, nor to prescribe the filing document necessary when a property tax lender pays property taxes for another person. This bill:

Authorizes a property tax lender to conduct business in an office, office suite, room, or place of business in which any other business is conducted or in combination with any other business unless the consumer credit commissioner (commissioner) determines after a hearing that the conduct of the other business in that office, office suite, room, or place of business has concealed an evasion of this chapter, and orders the lender in writing to desist from the conduct of the other business in that office, office suite, room, or place of business.

Requires the commissioner or the commissioner's representative, at the times the commissioner or the representative considers necessary, to examine each place of business of each property tax lender; and investigate the lender's transactions, including loans, and records, including books, accounts, papers, and correspondence, to the extent the transactions and records pertain to certain regulated business.

Requires the property tax lender to give the commissioner or the commissioner's representative free access to the lender's office, place of business, files, safes, and vaults, and allow the commissioner or the representative to make a copy of an item that may be investigated.

Authorizes the commissioner or the commissioner's representative, during an examination, to administer oaths and examine any person under oath on any subject pertinent to a matter about which that the commissioner or the representative is authorized or required to consider, investigate, or secure information.

Provides that a property tax lender's violation is a ground for the suspension or revocation of the lender's license.

Authorizes the commissioner or the commissioner's representative, to discover a violation or to obtain information required, to investigate the records, including books, accounts, papers, and correspondence, of a person, including a property tax lender, who the commissioner or the representative has reasonable cause to believe is in violation.

Provides that a property tax lender who fails or refuses to permit an authorized examination or investigation violates Chapter 351 (Property Tax Lenders), Finance Code.

Authorizes the commissioner, if the commissioner questions the amount of a property tax lender's net assets, to require certification by an independent certified public accountant that the accountant has reviewed the property tax lender's books, other records, and transactions during the reporting year, the books and other records are maintained using generally accepted accounting principles, and the property tax lender meets the net assets requirement.

Provides that information or material obtained or compiled by the commissioner in relation to an examination by the commissioner or the commissioner's representative of a license holder or registrant, except as provided, is confidential and is prohibited from being disclosed by the commissioner or an officer or employee of CCC.

Authorizes the commissioner or the commissioner's representative to disclose the confidential information or material to a department, agency, or instrumentality of this state or the United States if the commissioner considers disclosure to be necessary or proper to the enforcement of the laws of this state or the United States and in the best interest of the public; if the license holder or registrant consents to the release of the information or has published the

information contained in the release; or if the commissioner determines that the release of the information is required for an administrative hearing.

Requires the commission by rule to prescribe the form and content of certain sworn documents.

Commercial Fleet Motor Vehicles Registration/Texas Clean Fleet Program—S.B. 1759

by Senator Watson—House Sponsor: Representative Pickett

Currently, registrations for every vehicle must be completed on an annual basis on the anniversary date of the last sticker purchase. A company with a fleet of 12,000 vehicles in Texas must complete registration renewals on a monthly basis throughout the calendar year in volumes of approximately 500 to 1,600 vehicles per month.

Additionally, state incentives would help encourage companies in Texas to convert their existing gasoline and diesel burning vehicles to low-emission vehicles. Such a program would complement other state policies and programs already in place to help improve air quality levels, especially in and around nonattainment or near nonattainment areas of the state. This bill:

Requires the Texas Department of Transportation (TxDOT) to develop and implement a system of registration to allow an owner of a commercial fleet of at least 25 nonapportioned motor vehicles to register the vehicles for an extended registration period of not less than one year or more than eight years, as determined by the owner.

Sets forth the required fees, including a one-time license plate manufacturing fee.

Authorizes a license plate to include the name or logo of the business entity that owns the vehicle.

Requires TxDOT, if a vehicle registered under these provisions has a gross weight in excess of 10,000 pounds, to also issue a registration card for the vehicle.

Requires TxDOT to adopt rules and implement the system of registration not later than January 1, 2010.

Requires TxDOT and the counties to consider any temporary increases and resulting decreases in revenue that will result from the implementation.

Exempts a vehicle purchased by a commercial fleet buyer who is a full-service deputy assessor-collector from the law requiring a vehicle dealer to apply for the registration and title of a vehicle sold by the dealer.

Requires the Texas Commission on Environmental Quality (TCEQ) to establish and administer the Texas clean fleet program (program) financed by five percent of money in the Texas emissions reduction plan fund that is set aside for the diesel emissions reduction incentive program.

Provides that an entity that places 25 or more qualifying vehicles in service for use entirely in Texas during a calendar year is eligible to participate in the program, and establishes characteristics that do and do not qualify a vehicle for participation.

Authorizes an entity operating in Texas that operates a fleet of at least 100 vehicles to apply for and receive a grant under the program.

Authorizes TCEQ to adopt guidelines to allow a regional planning agency or a private nonprofit organization to also apply for and receive a grant.

Establishes eligibility criteria for a project to receive a grant and requires TCEQ to adopt rules to establish criteria for prioritizing eligible projects as soon as practicable after the effective date of the bill.

Establishes standards for determining grant amounts and authorizes TCEQ to revise the standards to reflect changes to federal emission standards and decisions on pollutants of concern.

Provides that the program expires August 31, 2017.

Adds a temporary provision, that expires August 31, 2011, requiring TCEQ to conduct an alternative fueling facilities study to assess the correlation between the installation of fueling facilities in nonattainment areas and the deployment of fleet vehicles that use alternative fuels and to determine the emissions reductions achieved from replacing a diesel powered engine with an engine utilizing alternative fuels.

Requires TCEQ to use the findings of the study in discussions with the United States Environmental Protection Agency regarding credit for emissions reductions in the state implementation plan which can be achieved as a result of the installation of alternative fuel fueling facilities and to include the findings and the status of the discussions in the agency's biennial report to the legislature.

Pool-Related Electrical Maintenance—S.B. 1982

by Senator Dan Patrick—House Sponsor: Representative Hamilton

Current Texas law prohibits persons without a license from performing electrical-related services. In 2008, the Texas Department of Licensing and Regulation (TDLR) notified pool industry representatives that pool-related electrical maintenance work in Texas must be addressed in legislation. This bill:

Redefines "residential appliance," "residential appliance installation," "residential appliance installation contracting," "residential appliance installation contractor," and "residential appliance installer" and defines "pool," "pool-related electrical device," and "pool-related electrical maintenance."

Provides that the Texas Electrical Safety and Licensing Act does not apply to the maintenance, alteration, or repair of a pool-related electrical device by, or pool-related electrical maintenance performed by, an employee of a municipality on a pool owned or operated by the municipality.

Requires TDLR, in addition to the other requirements of this section, to accept, develop, or contract for a residential appliance installer examination that tests an applicant's knowledge of the materials and methods used in the installation of residential appliances and pool-related devices under this chapter and the National Electrical Code standards as adopted by the executive director of TDLR.

Requires the Texas Commission of Licensing and Regulation, not later than January 1, 2010, to adopt any necessary rules.

Regulations and Penalties for Automotive Wrecking and Salvage Yards—S.B. 1992

by Senator Gallegos—House Sponsor: Representative Wayne Smith

There has been a rapid expansion of junkyards in older communities in unincorporated Harris County in the last few years. Chapter 397 (Automobile Wrecking and Salvage Yards in Certain Counties), Transportation Code, provides a variety of regulations including distance requirements between the junkyard and existing homes, schools, and churches. The law is being routinely violated. The encroaching junkyards are cause for serious concern, including the harmful impact on drinking water in these communities. This bill:

Authorizes the imposition of a civil penalty of not less than \$500 or more than \$1,000 against an operator of an automotive wrecking and salvage yards in a county with a population of 3.3 million or more for a violation of Chapter 397.

Authorizes a person, county, or municipality to seek an injunction to prohibit a violation or intended violation.

Eligibility to Hold the Office of Notary Public—S.B. 2073

by Senator Duncan—House Sponsor: Representative Chisum

There is some problem reconciling the language of the Government Code regarding what qualifies as a conviction for the purpose of determining eligibility to become a notary public with language in the Penal Code. This bill:

Amends the Government Code to provide that the following may not be considered a conviction for the purposes of determining eligibility and good cause:

- a dismissal of a proceeding against the defendant and discharge of the defendant before an adjudication of guilt; and
- a finding of guilt that has been set aside.

Abolition of the Texas Incentive and Productivity Commission—H.B. 874

by Representative Callegari—Senate Sponsor: Senator Lucio

The Texas Incentive and Productivity Commission (TIPC) was created in 1989 to administer programs that reduced state agencies' operating costs. In 2004, the State Council on Competitive Government (council) released a report with the finding that small and mid-sized agencies rarely participated in TIPC programs. In the absence of meaningful agency participation in the programs, the council recommended that individual agencies be responsible for implementing their own employee suggestion program on a voluntary basis beginning September 1, 2004, under guidelines developed by the council. Following the council's 2004 report, TIPC ceased operations during fiscal year 2005. The 79th Legislature, Regular Session, 2005, discontinued funding for TIPC upon the recommendation of the Legislative Budget Board. The 80th Legislature, Regular Session, 2007, did not appropriate any funds for the TIPC for the 2008-2009 fiscal biennium. Although authorized by law, the TIPC no longer exists as a functioning state agency, nor do any other state agencies participate in the state employee incentive program administered by TIPC. This bill:

Repeals Subchapters A (General Provisions) and B (State Employee Incentive Program), Chapter 2108 (Employee Incentive and Agency Productivity), Government Code.

Repeals the subchapter heading to Subchapter C (Savings Incentive Program for State Agency), Chapter 2108, Government Code.

Provides that Subsection (e) (relating to the requirement that a state agency is prohibited from using appropriated money to publish a publication on certain types of printing stock) does not apply to the publication of a brochure regarding approved foods under the federal special supplemental food program for women, infants, and children administered by the Texas Department of Health, a publication designed to promote tourism or economic development, a publication of the Texas School for the Deaf or the Texas School for the Blind and Visually Impaired, or a publication of an institution of higher education, rather than a publication of TIPC.

Repeals:

- Section 201.0192 (State Employee Incentive Information), Agriculture Code;
- Section 61.0281 (State Employee Incentive Program), Education Code;
- Section 12.113 (Employee Incentive Program), Finance Code;
- Section 13.015 (Employee Incentive Program), Finance Code;
- Section 14.067 (Employee Incentive Program), Finance Code;
- Section 33.0046 (State Employee Incentive Program: Information and Training), Government Code;
- Section 52.019 (State Employee Incentive Program), Government Code;
- Section 81.037 (State Employee Incentive Program), Government Code;
- Section 82.012 (State Employee Incentive Program), Government Code;
- Section 436.061 (State Employee Incentive Program), Government Code;

- Section 481.010(i) (relating to the requirement that the executive director of the Texas Economic Development and Tourism Office (executive director) or the executive director's designee provide office employees information and training on the state employee incentive program), Government Code;
- Section 571.0303 (Training on State Employee Incentive Program), Government Code;
- Section 801.111(e) (relating to the requirement that the executive director of the State Pension Review Board (executive director) or the executive director's designee provide information and training on the state employee incentive program), Government Code;
- Section 2003.054 (State Employee Incentive Program), Government Code;
- Section 2152.110 (State Employee Incentive Program), Government Code;
- Section 2205.018 (State Employee Incentive Program), Government Code;
- Section 2306.6019 (State Employee Incentive Program), Government Code;
- Section 2308.159 (State Employee Incentive Program Information and Training), Government Code;
- Section 1001.057 (State Employee Incentive Program), Health and Safety Code;
- Section 21.0053 (State Employee Incentive Program), Human Resources Code;
- Section 117.057 (State Employee Incentive Program), Human Resources Code;
- Section 161.057 (State Employee Incentive Program), Human Resources Code;
- Section 301.046 (State Employee Incentive Program Information and Training), Labor Code;
- Section 51.109 (State Employee Incentive Program), Occupations Code;
- Section 253.008 (Training for Employees on State Incentive Program), Occupations Code;
- Section 651.0512 (Training for Employees on State Incentive Program), Occupations Code;
- Section 901.106 (Information on State Employee Incentive Program), Occupations Code;
- Section 1001.156 (Information on State Employee Incentive Program), Occupations Code;
- Section 1071.107 (Information on State Employee Incentive Program), Occupations Code;
- Section 1151.074 (Information on State Employee Incentive Program), Occupations Code;
- Section 1301.206 (Employee Incentive Program), Occupations Code;
- Section 11.0127 (Training for Employees on State Incentive Program), Parks and Wildlife Code;
- Section 407.007 (Information and Training on State Employee Incentive Program), Property Code;

- Section 5.2275 (State Employee Incentive Program), Water Code;
- Section 6.196 (Training on State Employee Incentive Program), Water Code;
- Section 2-8 (Information About State Employee Incentive Program), The Securities Act (Article 581-2-8, V.T.C.S.);
- Section 21A(k) (relating to the requirement that the fire fighters' pension commissioner or the commissioner's designee provide employees information and training on the state employee incentive program), Texas Local Fire Fighters Retirement Act (Article 6243e, V.T.C.S.); and
- Article 6447m (Employee Incentive Program), V.T.C.S.

The Teacher Retirement System's Hiring of Outside Legal Counsel—H.B. 1259

by Representative Kolkhorst et al.—Senate Sponsor: Senator Duncan

Current law provides that the attorney general of the state is the legal adviser of the board of trustees of the Teacher Retirement System of Texas (TRS) and requires the attorney general to represent the board in all litigation. Furthermore, the law requires that a contract for legal services between an outside attorney and a state agency in the executive department be approved by the attorney general to be valid. This bill:

Prohibits the board of trustees of TRS from employing outside legal counsel to provide legal services to TRS unless the attorney general has approved the contract for legal services, including services relating to ethics and fiduciary responsibilities, between an outside attorney and TRS.

Leave for Certain State Employee Volunteers of CASA—H.B. 1462

by Representative Pickett et al.—Senate Sponsor: Senator Uresti

Currently, the number of Court Appointed Special Advocates (CASA) is insufficient to meet the needs of the children entering the foster care system in Texas. This bill:

Authorizes a state employee to be granted leave not to exceed five hours each month to volunteer for CASA without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time.

Boll Weevil Eradication Foundation—H.B. 1580

by Representative Flynn et al.—Senate Sponsor: Senator Hegar

The Texas Boll Weevil Eradication Foundation (foundation) is primarily a grower-initiated and grower-funded effort to eradicate the boll weevil and pink bollworm from Texas cotton fields. The foundation's main functions include mapping cotton fields, setting and monitoring boll weevil traps, and arranging for aerial pesticide applications in areas of boll weevil infestation. All active cotton-growing areas in Texas voluntarily participate in the foundation's boll weevil eradication efforts. The foundation is a quasi-governmental entity with oversight from the commissioner of agriculture (commissioner). Its employees are not state employees, and its budget is not subject to the legislative appropriations process. In 2008, the foundation operated on a budget of about \$58 million, comprising assessments from nearly 26,000 growers, federal funding, and state funding. The foundation also has an accumulated statewide debt of \$99 million in low-interest loans from the Farm Service Agency. The foundation is subject to the Texas Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. A review by the Texas Sunset Advisory Commission found that the foundation's current structure promotes meaningful participation by

cotton growers and encourages a cooperative, self-policing attitude that makes the program more proactive than traditional regulatory approaches. However, inflexible methods and mechanisms for collecting and using grower assessments may affect the foundation's ability to successfully complete its mission of eradicating the boll weevil. This bill:

Requires the Texas Department of Agriculture (TDA) to submit the recommendations of each administrative committee that governs a pest management zone to the foundation.

Requires the foundation, on review of the administrative committee recommendations, to submit to TDA an estimate of the amount by which the implementation of each recommendation would increase the cost of administering the boll weevil eradication program.

Requires the foundation to conduct a study of the effects of incomplete cotton stalk destruction and volunteer cotton control on boll weevil eradication activities, and submit annual recommendations to TDA and the board of the foundation for a cotton stalk destruction deadline for each pest management zone.

Requires TDA to set a cotton stalk destruction deadline for each pest management zone, with consideration given to the recommendations of the foundation and the applicable administrative committee.

Requires TDA to establish and collect a hostable cotton fee for fields in which hostable cotton stalks, hostable volunteer cotton, or other hostable noncommercial cotton remains past the stalk destruction deadline set for the applicable pest management zone.

Requires that a fee be expressed in terms of dollars per acre, per week in which the stalks, volunteer cotton, or other noncommercial cotton remains in the field.

Requires TDA to establish a procedure to notify a cotton grower that a fee is due to TDA.

Authorizes the administrative committee that governs the applicable pest management zone, if adverse weather conditions or other good cause exists, to request, not later than 10 business days before the destruction deadline, that the department grant an extension of the cotton stalk destruction deadline for any specified part of the pest management zone or for the entire pest management zone.

Provides that a field is not subject to a hostable cotton fee if TDA grants an extension of the deadline.

Requires the foundation to submit to TDA an estimate of the amount by which an extension will increase the cost of administering the boll weevil eradication program.

Authorizes a cotton grower to apply for an individual extension of the deadline not later than 10 business days before the destruction deadline.

Requires the foundation to submit to TDA an estimate of the amount by which any extension of a stalk destruction deadline that is granted will increase the cost of administering the boll weevil eradication program.

Requires that a hostable cotton fee be sent to the comptroller of public accounts (comptroller) and provides that it may be appropriated only for the purpose of treating hostable cotton or for other expenses related to boll weevil eradication.

Authorizes an assessment levied on cotton growers in an eradication zone to be applied only to eradication; the foundation's operating costs, including payments on debt incurred for a foundation activity; and the conducting of other programs consistent with the declaration of policy.

Authorizes the foundation, with the approval of the board and the commissioner, to transfer the proceeds from the collection of assessments in one eradication zone to another eradication zone.

Authorizes commissioner to adopt rules that provide for an alternative method, manner, and mechanism by which assessments are imposed and collected under Subchapter D (Official Cotton Growers' Boll Weevil Eradication Foundation), Chapter 74 (Cotton Diseases and Pests), Agriculture Code.

Prohibits the maximum amount of an assessment under this section from exceeding the maximum amount of an assessment approved in an assessment referendum.

Authorizes the commissioner to adopt reasonable rules regarding areas where cotton is prohibited to be planted in an eradication zone if there is reason to believe that planting will jeopardize the success of the program by making treatment impracticable or present a hazard to public health or safety.

Authorizes the commissioner to adopt rules relating to noncommercial cotton located in eradication zones and requiring that all growers of commercial cotton in an eradication zone participate in a boll weevil or pink bollworm eradication program that includes cost sharing as required by the rules.

Requires TDA to destroy or treat hostable volunteer or other hostable noncommercial cotton and establish procedures for the purchase and destruction of commercial cotton in eradication zones if TDA determines the action is necessary to carry out the purposes of Subchapter D, Chapter 74, Agriculture Code.

Provides that TDA is not liable to the owner or lessee for the destruction of or injury to any cotton that was planted in an eradication zone after publication of notice as provided by Subchapter D, Chapter 74, Agriculture Code.

Provides that the foundation is liable for the destruction of cotton if the cotton was planted in an eradication zone before publication of the notice.

Requires TDA, not later than January 1, 2010, to adopt rules providing for the regulation and control of volunteer and other noncommercial cotton in pest management zones.

Requires the rules, at a minimum, to provide a grower or landowner with a period of time in which the grower or owner is required to destroy hostable volunteer or other hostable noncommercial cotton on receipt of a notice from TDA; and allow TDA or a person designated by TDA to monitor and treat hostable volunteer or other hostable noncommercial cotton that is located in a crop field for boll weevil infestation if the grower or landowner does not destroy the cotton in compliance with the notice from TDA; and to destroy hostable volunteer or other hostable noncommercial cotton that is not in a crop field.

Requires the grower or owner, if a grower or landowner does not destroy hostable volunteer or other hostable noncommercial cotton, to pay to TDA a volunteer cotton fee in an amount determined by TDA.

Provides that the board of directors of the official cotton growers' boll weevil eradication foundation is subject to Chapter 325, Government Code (Texas Sunset Act).

Provides that unless continued in existence as provided by Chapter 325, the board is abolished and this subchapter expires September 1, 2021, rather than September 1, 2009.

Department of Information Resources—H.B. 1705*by Representative Geren—Senate Sponsor: Senator Ellis*

Chapter 2054 (Information Resources), Government Code, governs information resources and the Department of Information Resources (DIR). Chapter 2177 (Electronic Commerce), Government Code, governs electronic commerce and electronic state government procurement. This bill:

Abolishes the telecommunications planning and oversight council.

Requires DIR to establish plans and policies for a system of telecommunications services

Requires DIR to develop a statewide telecommunications operating plan for all state agencies.

Requires that the plan implement a statewide network and include technical specifications.

Deletes existing text requiring DIR to consult with the council regarding telecommunications elements of the plan.

Deletes existing text requiring the council and DIR to make use of the technical expertise of state agencies, including institutions of higher education.

Requires DIR to review the status of all projects related to and the financial performance of the consolidated telecommunications system and the centralized capitol complex telephone system, including a comparison between actual performance and projected goals at least once every three months and any benefit of contracting with private vendors to provide some or all of the systems at least once each year.

Deletes existing Section 2054.207 (Report to Legislature), Government Code.

Requires that the report address certain telecommunications system issues.

Provides that a rule, form, plan, policy, or order of the council is continued in effect as a rule, form, plan, policy, or order of DIR until superseded by a rule or other appropriate action of DIR.

Repeals Sections 2054.201 (Composition; Terms); 2054.202 (Administrative Provisions); 2054.205 (Limitation of Liability); and 2170.060 (Quarterly Report), Government Code.

Modifies provisions regarding the instructions DIR is required to provide state agencies for use in preparing their strategic plans.

Authorizes DIR to require a state agency to provide to DIR a planned procurement schedule for commodity items if DIR determines that the information in the schedule can be used to provide a benefit to the state.

Requires a state agency, if required by DIR, to provide a planned procurement schedule for commodity items to DIR before the agency's operating plan may be approved under Section 2054.102 (Evaluation and Approval of Operating Plans), Government Code.

Authorizes DIR to contract for use of the consolidated telecommunications system with certain entities, including an assistance organization, as defined by Section 2175.001 (Definitions), Government Code.

Eliminates the interagency panel on software portfolio management training.

Requires DIR to adopt performance and interoperability standards for software used by school districts for financial accounting or attendance reporting.

Public Meeting Broadcasts of PUC and ERCOT—H.B. 1783

by Representative Solomons et al.—Senate Sponsor: Senator Fraser

Currently, neither the Public Utility Commission of Texas (PUC) nor the Electric Reliability Council of Texas (ERCOT) broadcast their meetings live or post audio archives online free of charge. A person can only gain access to this information by signing up and purchasing the service administered by TexasAdmin.com. This bill:

Requires PUC to make publicly accessible without charge live Internet video of all public hearings and meetings PUC holds for viewing from the Internet website found at <http://www.puc.state.tx.us>.

Authorizes PUC to recover the costs of administering the broadcast by imposing an assessment against a public utility, a nonprofit corporation, created by and acting on behalf of a river authority, that sells electricity exclusively at wholesale and not to ultimate customers, retail electric provider that serves more than 250,000 customers, or power generation company that owns more than 5,000 megawatts of installed capacity in this state.

Requires PUC to ensure that an independent organization makes publicly accessible without charge live Internet video of all public meetings for viewing from an Internet website.

Information Technology Security of State Agencies—H.B. 1830

by Representatives Corte and Edwards—Senate Sponsor: Senator Ellis

Section 552.139 (Exception: Government Information Related to Security Issues for Computers), Government Code, exempts from public access any information related to computer network security, design, operation, and defense. Also exempt are assessments of vulnerability to unauthorized access or harm of a computer network, associated hardware, and software run by a governing body or contractor. Confidential network security information may be released by the Department of Information Resources (DIR) to officials responsible for the network, law enforcement, the State Auditor's Office (SAO), and agency or elected officials designated by the department. The information resources manager of a state agency is authorized to prepare or have prepared a vulnerability report that assesses the extent to which a computer or related program, network, system, software, or data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm. The report can be provided, on request, to DIR, SAO, and any other information technology security entity authorized by the Legislature to receive the report. A summary version of this report is required to be prepared without any security-compromising information and made available to the public on request. This bill:

Entitles DIR to obtain from the Department of Public Safety or the identification division of the Federal Bureau of Investigation the criminal history record information of a person who provides network security services and who is an employee, applicant for employment, contractor, subcontractor, intern, or other volunteer with DIR or with a contractor or subcontractor for DIR.

Sets forth the circumstances under which the information can be released or obtained and when information is required to be destroyed.

Adds DIR to the list of state entities to which a criminal justice agency is authorized to disclose criminal history record information that is subject to an order of nondisclosure.

Prohibits DIR from obtaining criminal history record information under these provisions unless it adopts policies and procedures that meet criteria relating to the use of the information in hiring decisions.

Provides that the law pertaining to open meetings does not require the governing board of DIR to conduct an open meeting to deliberate security assessments or deployments relating to information resource technology, network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

Authorizes information of a confidential nature to be disclosed to a bidder if the governmental body determines that providing the information is necessary for the bidder to provide an accurate bid.

Authorizes the information resources manager of a state agency to prepare or have prepared an executive summary of the findings of a report assessing the extent to which an interface to a computer system, among other electronic devices, is vulnerable to unauthorized access or harm, including the extent to which the agency's or contractor's electronically stored information is vulnerable to inappropriate use.

Sets forth the individuals and departments to which an electronic copy of the vulnerability report is to be provided upon its completion.

Requires DIR to adopt rules requiring, in state agency contracts for network hardware and software, a statement by the vendor certifying that the network hardware or software, as applicable, has undergone independent certification testing for known and relevant vulnerabilities.

Texas Department of Rural Affairs—H.B. 1918

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

The Office of Rural Community Affairs (ORCA) is a state agency dedicated to serving the needs of rural Texas. ORCA's main functions include coordinating rural programs among state agencies, participating in disaster relief efforts, and awarding grants to rural communities and nonprofit hospitals that operate in rural areas. This bill:

Changes the name of ORCA to the Texas Department of Rural Affairs.

Removing Limitation on Advertising Budget for Texas Lottery Commission—H.B. 1963

by Representative Kuempel—Senate Sponsor: Senator Whitmire

Section 466.015(d), Government Code, prohibits the advertising budget for the lottery from exceeding an amount equal to \$40 million less \$1 million for each full percent by which the total amount of lottery prizes awarded by the Texas Lottery Commission in the preceding fiscal year exceed an amount equal to 52 percent of the gross revenue from the sale of tickets. A study conducted by the McCombs School of Business at The University of Texas at Austin determined that lottery sales are stimulated by providing information through advertising and that all state lotteries are under-investing in advertising. This bill:

Repeals Section 466.015(d) (relating to the limitation on the advertising budget for the lottery based on the total amount of lottery prizes awarded), Government Code.

Advisory Bodies to the Texas Department of Licensing and Regulation—H.B. 2548

by Representative Kuempel—Senate Sponsor: Senator Williams

The Texas Department of Licensing and Regulation (TDLR) is governed by the seven-member Texas Commission of Licensing and Regulation (TCLR). TCLR relies on the expertise of advisory boards when discussing issues that are technical in nature. Advisory boards are composed of industry experts in a particular regulated industry. Currently, some advisory boards do not have public members who have no connection to the industry. This bill:

Provides that the Board of Boiler Rules is composed of 11 members appointed by the presiding officer of TCLR with TCLR's approval, including two public members.

Provides that the Property Tax Consultants Advisory Council is composed of seven members appointed by the presiding officer of TCLR, with TCLR's approval, and requires one member of the council to be a public member.

Provides that the Air Conditioning and Refrigeration Contractors Advisory Board consists of seven members appointed by the presiding officer of TCLR, with TCLR's approval, and two ex officio nonvoting members and requires one member of the advisory board to be a public member.

Provides that the Advisory Board on Cosmetology consists of seven members appointed by the presiding officer of TCLR, with TCLR's approval, including one member who represents a licensed public secondary or postsecondary beauty culture school and one public member.

Provides that the Auctioneer Education Advisory Board consists of seven members appointed as follows: three members who are licensed auctioneers appointed by the presiding officer of TCLR, with TCLR's approval; the executive director of the Texas Economic Development and Tourism Office, or the director's designee; the commissioner of education or the commissioner's designee; and two public members.

Provides that the Towing and Storage Advisory Board consists of certain members appointed by the presiding officer of TCLR, with the approval of TCLR, including one public member.

Requires the presiding officer of TCLR to appoint the public members of the advisory bodies to TDLR not later than December 1, 2009.

Composition and Appointment of TRS Board of Trustees—H.B. 2656 [VETOED]

by Representative Doug Miller et al.—Senate Sponsors: Senators Duncan and Eltife

Currently, the board of trustees of the Teacher Retirement System of Texas (TRS) is composed of seven members appointed by the governor, including one member who receives benefits from TRS and two members from a list of nominees submitted by the State Board of Education (SBOE). Because the number of retirees enrolling in TRS is increasing, they should be better represented on the board of trustees of TRS. This bill:

Requires the governor to appoint eight members of the board of trustees of TRS, including two members who are receiving benefits from TRS and one member from a list of nominees submitted by SBOE.

Creating the Department of Motor Vehicles—H.B. 3097

by Representative McClendon et al.—Senate Sponsor: Senator Carona

The primary mission of the Texas Department of Transportation (TxDOT) is developing and constructing transportation projects. Yet TxDOT is charged with providing administrative support to three divisions associated

with vehicles and motor carriers: the vehicle titles and registration division, the motor vehicle division, and the motor carrier division. TxDOT also supports the Automobile Burglary and Theft Prevention Authority.

The Sunset Advisory Commission (SAC) adopted staff recommendation to establish a Texas Department of Motor Vehicles to address issues that were identified during the sunset review of TxDOT. During the 2008 review, SAC concluded that various administrative, licensing, and enforcement processes in the statutes and rules governing motor vehicle dealers, salvage vehicle dealers, and household goods carriers were not being carried out in line with model standards developed by SAC staff.

Creating a separate agency to handle commercial and noncommercial drivers and their vehicles will promote greater efficiency and accountability. A faster turnaround time to process vehicle title transactions, for example, will cause commercial vehicles to have less down time and also serve noncommercial vehicle owners in a more timely manner. When commercial vehicles must be sidelined to wait for vehicle documentation to be completed or required permits to be issued, each day of standby time represents lost income and delays in delivery. Managing the motor vehicle functions in a separate agency would make the renewal, registration, permitting, and licensing processes more user-friendly for drivers and owners and keep wait times at an acceptable level. There is precedent for creating a stand-alone agency to handle motor vehicle functions in Texas. In 1971, the legislature established the Texas Motor Vehicle Commission, and another agency, the Texas Mass Transit Commission, that coordinated public transportation. The Texas Motor Vehicle Commission remained a separate agency until 1991, when it and the Department of Aviation were merged into the State Department of Highways and Public Transportation, which was renamed the Texas Department of Transportation. This bill:

Creates the Texas Department of Motor Vehicles (DMV) and a nine-member DMV board appointed by the governor with the advice and consent of the senate.

Requires the transfer of all powers, duties, obligations, rights of action, personnel, computers, other property and equipment, files, and related materials of the Motor Carrier Division (with the exception of Oversize/Overweight vehicle permitting and enforcement), Motor Vehicle Division, Vehicle Titles and Registration Division, and Automobile Burglary and Theft Prevention Authority from the Texas Department of Transportation (TxDOT) to the DMV on November 1, 2009.

Transfers all powers, duties, obligations, and rights of action of the Texas Transportation Commission (TTC) associated with the Motor Vehicle Division, the Vehicle Titles and Registration Division, and the portion of the Motor Carrier Division of TxDOT that is responsible for motor carrier registration and enforcement to the board of the DMV.

Requires the board of the DMV to hold regular meetings at least quarterly.

Requires the board to establish advisory committees for the motor carrier, motor vehicles, and vehicle title and registration divisions of the DMV.

Transfers and re-appropriates to the DMV any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009, for the transferred programs in fiscal year 2010.

Directs the transfer of other full-time equivalent employees (FTE) that support the transferred motor vehicle functions at TxDOT to the DMV.

Authorizes TxDOT and DMV to determine the number of support FTEs to be transferred through a memorandum of understanding (MOU).

Requires the DMV board and TTC to adopt or revise a joint MOU to coordinate the agencies' information systems to allow for the sharing of information and to implement the MOU using existing personnel and resources.

Authorizes the DMV board and TTC to enter into a joint MOU to effectuate the transfer of powers and duties, which could include an agreement for the provision of office space, utilities, and support services.

Requires TxDOT to establish a DMV transition team to plan for and make recommendations regarding the transfer of obligations, property, and personnel from TxDOT to the DMV.

Requires the State Auditor's Office (SAO), as soon as practicable after the effective date of the bill, to conduct a financial audit to establish financial benchmarks for the DMV on its overall status and condition in relation to funds, equipment and assets, pending matters, and other issues considered appropriate by the SAO.

Requires the Texas Department of Licensing and Regulation (TDLR) to license and regulate used automotive parts recyclers and employees of used automotive parts recyclers.

Requires the presiding officer of the Commission of Licensing and Regulation to appoint five members to a Used Automotive Parts Recycling Advisory Board for the purposes of providing advice and recommendations to TDLR on technical matters relevant to the administration and enforcement of licensing standards.

Authorizes TDLR to establish and collect fees.

Requires TDLR to perform periodic and risk-based inspections on licensees at the place of business.

Establishes terms of license eligibility, administrative penalties, and criminal penalties.

Requires a used automotive parts recycler to file certain reports regarding vehicle title acquisition, notification of vehicle dismantling, and records of purchase and inventory of parts with TxDOT.

Requires TxDOT to provide the used automotive parts recycler with receipts for the reports, records, and other specified documentation.

Provides that the license requirement and enforcement requirements take effect September 1, 2010.

Authorizing the Transfer of Certain Real Property by TDCJ—H.B. 3202 [VETOED]

by Representative Bonnen—Senate Sponsor: Senator Mike Jackson

The Texas Department of Criminal Justice (TDCJ) owns property adjacent to Brazoria County Airport. Brazoria County (county) needs to develop its airport. The City of Houston (city) also wants to enter into an agreement for the transfer of certain land from TDCJ to the city. This bill:

Requires TDCJ, not later than:

- January 1, 2010, to transfer to county certain described real property; and
- October 31, 2010, to transfer to city certain real property.

Provides that ownership of the property automatically reverts to TDCJ if the county or city fail to use the property in the manner described by agreement with TDCJ for more than 180 continuous days, or use the property for any purpose other than a purpose benefiting the public interest.

Excludes from the transfers all mineral interests in and under the property, and prohibits any exploration, drilling, or other similar intrusion on the property related to mineral interests.

TRS as Qualified Plan Under Federal Tax Code—H.B. 3347*by Representative Truitt et al.—Senate Sponsor: Senator Duncan*

The Teacher Retirement System of Texas (TRS), a qualified plan under the federal tax code, is required to meet the qualification requirements established by the U.S. Congress and the Internal Revenue Service (IRS). When Congress or IRS update or enact new regulations relating to such qualified plans, state law needs to be updated to reflect the new or amended regulations. This bill:

Updates the statutory provisions relating to the qualification of TRS under the federal tax code.

Authorizing TDCJ and the City of Dallas to Exchange Comparable Property—H.B. 3438*by Representative Hodge—Senate Sponsor: Senator West*

The City of Dallas (city) has embarked upon the Trinity River Corridor Project and seeks the transfer of certain real property from the Texas Department of Criminal Justice (TDCJ) as part of this public work project, has the planned use for the Downtown (Reunion) This bill:

Authorizes TDCJ to convey certain real property to the city if the city conveys real property meeting certain criteria to TDCJ.

Requires the General Land Office to negotiate and close the transaction on behalf of the Texas Board of Criminal Justice.

Provides that Section 272.001 (Sale or Lease of Property by Municipalities, Counties, and Certain Other Local Governments), Local Government Code, and Section 31.158 (Real Estate Transactions Authorized by Legislature), Natural Resources Code, do not apply to the transaction.

Electronic Notices and Determination of Pollution Control Property by TCEQ—H.B. 3544*by Representative Lucio III—Senate Sponsor: Senator Fraser*

The use of electronic mail and electronic reporting provides substantial cost savings and the efficient transmission of information. This legislation intends to encourage the Texas Commission on Environmental Quality (TCEQ) to use electronic reporting through the Internet to the extent practicable when issuing notices, orders, and decisions. TCEQ is responsible for determining whether a property is a pollution control property and therefore, exempt from ad valorem taxes. This bill:

Authorizes TCEQ to utilize electronic means of transmission of information, including notices, orders, and decisions issued or sent by TCEQ.

Requires the executive director of TCEQ, as soon as practicable, to send notice by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the property is located that a person has applied for a tax exemption for property that is used as a facility, device, or method for the control of air, water, or land pollution.

Requires TCEQ to establish a permanent advisory committee consisting of representatives of industry, appraisal districts, taxing units, and environmental groups to advise TCEQ regarding the determination of pollution control property for tax exemption purposes.

Texas State Libraries and Archives Commission—H.B. 3756

by Representative Donna Howard—Senate Sponsor: Senator Ellis

Many of the statutory provisions concerning the programs of the Texas State Library and Archives Commission (TSLAC) have not been updated in more than 20 years. Definitions under the Library Systems Act, for instance, relate to programs and population groups that have shifted over the years. Additionally, future growth of the Library Systems and the TexShare Library Consortium is based on allowing TSLAC and the systems the flexibility to expand the program. Ongoing efforts by TSLAC to retrieve lost archival treasures of the state, such as claims for services or supplies provided to the Republic of Texas, and reports of military activities during the Texas revolution, have been hampered because of a lack of clarity in current statute about the state's right of recovery and limitations on the state's definition of an archival record. This bill:

Updates statutes related to TSLAC's operations by deleting obsolete provisions and modernizing definitions and terms to reflect current practices and standards related to TSLAC and its programs.

Broadens the definition of "state record" to include any recorded information created or received by a Texas government official in the conduct of official business, including officials from periods in which Texas was a province, colony, republic, or state.

Requires TSLAC to establish and maintain the TexShare consortium as a resource-sharing consortium operated as a program within TSLAC for libraries at institutions of higher education and for public libraries, libraries of nonprofit corporations, and other types of libraries.

Repeals:

- Sections 441.122(3) (relating to the definition of "area library") and (5) (relating to the definition of "community library"), Government Code;
- Sections 441.130(c) (relating to the term of office of a council member), (d) (relating to persons the council is required to elect), (e) (relating to the frequency that the council is required to meet), and (f) (relating to the compensation and reimbursements that the members of the council receive), Government Code;
- Section 441.133 (Area Libraries), Government Code;
- Section 441.134 (Community Libraries), Government Code;
- Sections 441.136(b) and (c) (relating to the adoption of rules by TSLAC), Government Code;
- Section 441.139 (Research Fees for For-Profit Entities), Government Code;
- Section 441.158(d) (relating to the adoption of a records retention schedule), Government Code;
- Section 441.161 (Local Government Records Committee), Government Code;
- Section 441.162 (Composition of the Committee), Government Code;
- Section 441.163 (Appointment of Local Government Records Committee; Compensation), Government Code;
- Section 441.164 (Term; Qualification; Vacancy), Government Code;

- Section 441.165 (Certain Commission Rules), Government Code; and
- Sections 441.226(c) (relating to the length of term for members of the advisory board) and (e) (relating to the election of a chairman and vice chairman), Government Code.

Per Diem for Texas Alcoholic Beverage Commission Members—H.B. 3829

by Representative Thompson—Senate Sponsor: Senator Harris

Currently, the Texas Alcoholic Beverage Code specifies that members of the Texas Alcoholic Beverage Commission (TABC) receive a per diem of \$10 a day, while provisions of the General Appropriations Act provide that commissioners receive \$30 a day. The amount specified in the General Appropriations Act is reviewed each legislative session and increased as needed, whereas the Alcoholic Beverage Code is not routinely updated to reflect the General Appropriations Act. This bill:

Provides that members of TABC receive per diem as provided by the General Appropriations Act, rather than per diem of \$10 a day, for not more than 60 days a year, plus actual expenses, while attending TABC meetings or otherwise engaged in the performance of their duties.

Authorization of TDHCA to Capture Certain Federal Funds—H.B. 4275

by Representative Menendez et al.—Senate Sponsor: Senator West

The American Recovery and Reinvestment Act of 2008 (ARRA), also known as the Stimulus Package, provided several mechanisms by which states could provide funding for affordable housing initiatives and developments. H.B. 4275 provides the Texas Department of Housing and Community Affairs (TDHCA) the necessary state authority to capture some of the funds provided in the ARRA. This bill:

Authorizes TDHCA to establish a separate application procedure for federal funds provided under the ARRA, and repeals this section August 31, 2011.

Requires TDHCA, if allowed by federal law, to secure the interests of the state through bonds, an ownership interest in property, restrictive covenants filed in the real Property records, and/or liens filed on a property for which the applicant has accepted funds until such a time as TDHCA and the State of Texas do not have liability to repay or recapture such funds.

Study on the Use of Prescription Drug Information by PBMs—H.B. 4402

by Representative Martinez Fischer et al.—Senate Sponsor: Senator Van de Putte

Texas consumers are often unaware when their health benefit plans no longer cover certain prescription medications that they are currently taking, thereby requiring patients to take a new medication without being informed that the new drug may be different from the one originally prescribed. This bill:

Requires TDI to conduct a study to evaluate the ways in which pharmacy benefit managers use prescription drug information to manage therapeutic drug interchange programs and other drug substitution recommendations made by pharmacy benefit managers or other similar entities.

Sets forth the required content of the study.

Transfer of Certain State Property from DPS to Webb County—H.B. 4541

by Representatives Raymond and Guillen—Senate Sponsor: Senator Zaffirini

Webb County entered into a lease with the State of Texas for the use of a Department of Public Safety of the State of Texas (DPS) building. At the expiration of the lease, DPS moved into its new facility and Webb County continued to use the building. This bill:

Requires DPS, not later than May 1, 2010, transfer to Webb County certain real property.

Requires Webb County to use the property only for a purpose that benefits the public interest of the state.

Provides that if Webb County uses the property for any other purpose, ownership of the property automatically reverts to DPS.

Requires DPS to transfer the property by an appropriate instrument of transfer and sets forth what the instrument must contain.

Requires DPS to retain custody of the instrument after the instrument is filed in the Webb County real property records.

Requires Webb County to pay any transaction fees.

Requires Webb County, before the transfer of the real property, to obtain at its expense a survey of the metes and bounds description for the transfer instrument.

Purchase of Retired Firearms from the Texas Parks and Wildlife Department—S.B. 417

by Senator Carona—House Sponsor: Representatives Isett and Homer

All peace officers may carry weapons while on or off duty and most officers prefer to carry a weapon with which they are familiar, including the weapon they use in performing their duties as a peace officer. Currently, when a peace officer's service weapon is retired, it becomes a surplus item and is sold in the same manner as other agency surplus items, such as office furniture or motor vehicles.

State law permits officers within the Department of Public Safety of the State of Texas to purchase their service weapon upon the weapon's retirement. Commissioned employees of the Texas Parks and Wildlife Department (TPWD) who are also peace officers desire similar consideration.

In addition to making the weapon available to a TPWD officer who may want his or her weapon, it is also less costly from an administrative perspective for an officer to purchase his or her service weapon directly upon its retirement rather than placing the weapon into the agency's surplus system for sale. This bill:

Authorizes an employee commissioned as a TPWD peace officer to purchase, for an amount set by TPWD not to exceed fair market value, a firearm issued to the person by TPWD if the firearm is not listed as a prohibited weapon under state law and the firearm is retired by TPWD for replacement purposes.

Qualifications of the Texas Department of Transportation Executive Director—S.B. 970*by Senator Seliger—House Sponsor: Representative Phillips*

Due to the amount of funding that the Texas Department of Transportation (TxDOT) handles and the number of people it employs, the need for the executive director to be an engineer should be secondary to the need for organizational management skills. As the duties of the executive director are managerial in nature, it is not necessary for him or her to be an engineer. This bill:

Requires the executive director of TxDOT to be experienced and skilled in transportation planning and development and in organizational management, rather than a registered professional engineer in Texas and experienced and skilled in transportation planning, development, construction, and maintenance.

Specifies that these provisions do not affect the right of the person serving as executive director of TxDOT on the effective date of the bill to continue to serve as the executive director.

Attorney General's Authority to Obtain Criminal Background Information—S.B. 1081*by Senator Huffman—House Sponsor: Representative Branch*

Under current law, only certain divisions of the Office of the Attorney General (OAG) are authorized to obtain criminal history background information that relates to job applicants, employees, and contractors. This bill:

Entitles OAG to obtain from the Department of Public Safety of the State of Texas, the Federal Bureau of Investigation, or another law enforcement agency criminal history record information maintained by that department or agency that relates to a person who is an applicant for a position of employment or to serve as a consultant, intern, or volunteer, or a person who proposes to enter into a contract with OAG.

Sale of Real Property by the Texas Board of Criminal Justice—S.B. 1149*by Senators Hegar and Huffman—House Sponsor: Representative Charlie Howard*

The property currently occupied by the Central Prison Unit of the Texas Department of Criminal Justice (TDCJ) has the potential to be redeveloped. TDCJ is reviewing the possibility of relocating the activity at the Central Prison Unit as well as the Smithville Prison Property (collectively referred to as CPU) to a location outside of Sugar Land, Texas. The land abuts an active runway, and the City of Sugar Land would impose significant restrictions on the use of the land if it were sold to a third party due to the safety concerns and legal restrictions on development near airport runways. The Texas Department of Transportation Aviation Division and the federal government have made significant investments in the Sugar Land Regional Airport. Allowing the acquisition of CPU would enable the city to utilize federal dollars that have been appropriated for airport expansion through land acquisition. The sale of the land would allow TDCJ to receive significant value while also allowing the land to be developed for its highest and best use for the region. This bill:

Requires the Texas Board of Criminal Justice (TBCJ) to authorize the sale of land, within 18 months of receiving notice, located next to an active runway of a municipally owned airport directly to a municipality at fair market value without the requirement of a sealed bid sale if the municipality seeking to acquire the land notifies TDCJ in writing of the municipality's desire to acquire the land for municipal airport expansion and TDCJ uses the land primarily for guard housing.

Requires TBCJ, after it receives the notice, to obtain its own and the municipality's appraisal of the land, to determine whether a third appraisal is necessary to determine fair market value, and to finalize the sale of the land to the municipality at fair market value.

Requires TDCJ, in determining the fair market value of land to be sold, to consider the necessary remediation that is required to be completed before the land can be used for airport expansion.

Annual Reports by the Texas Juvenile Probation Commission—S.B. 1374

by Senator West — House Sponsor: Representative McReynolds

The 80th Legislature, Regular Session, 2007, enacted S.B. 103, which implemented reform of the juvenile justice system. The Sunset Advisory Commission has recommended the creation of a community corrections pilot program targeting low-risk, juvenile felony offenders. This bill:

Requires the Texas Juvenile Probation Commission's annual report to the governor and the legislature to include an evaluation of the effectiveness of the community-based programs and information comparing the cost of a child participating in such program with the cost of committing the child to the Texas Youth Commission.

Terms of Members of Court Reporters Certification Board—S.B. 1441

by Senator Watson—House Sponsor: Representative Hunter

The Court Reporters Certification Board (CRCB) members' six-year terms are not staggered by statute. This bill:

Provides that CRCB members serve staggered six-year terms of office, with the terms of two or three members expiring on December 31 of each year.

Requires the Texas Supreme Court to prescribe a method for determining the dates on which the members' terms expire.

Requires that a certain number of terms be selected for expiration on certain dates.

Disclosure of Criminal History Information to CRCB—S.B. 1599

by Senator Watson — House Sponsor: Representative Darby

The Court Reporters Certification Board (CRCB) has the authority to reject applicants for certification and to discipline certificate holders who have criminal convictions. Under current law, the Department of Public Safety (DPS) does not have the authority to give such information directly to CRCB. This bill:

Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure to CRCB.

Authorizes CRCB to obtain from DPS criminal history record information that relates to a person who is an applicant for or the holder of a certification issued by CRCB.

Provides that the criminal history record information:

- may be used by CRCB for any purpose related to the issuance, denial, suspension, revocation, or renewal of a certification;
- may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information; and
- must be destroyed after the information is used for the authorized purposes.

Transfer of Certain State Property from TDCJ to Mitchell County—S.B. 1652*by Senator Duncan—House Sponsor: Representative Darby*

In 1992, Mitchell County conveyed five tracts of property to the Texas Department of Criminal Justice (TDCJ). This bill:

Requires TDCJ, not later than the 30th day after the effective date of this Act, to transfer to Mitchell County the real property described by this Act.

Requires Mitchell County to use the property transferred under this Act only for a purpose that benefits the public interest of the state.

Provides that if Mitchell County uses the property for any other purpose, ownership of the property automatically reverts to TDCJ.

Requires TDCJ to transfer the property by an appropriate instrument of transfer and sets forth what such instrument must contain.

Requires TDCJ to retain custody of the instrument of transfer after the instrument is filed in the Mitchell County real property records.

Requires Mitchell County to pay any transaction fees resulting from the property transfer.

Transferring Certain TxDOT Land to Polk County—S.B. 1670*by Senator Nichols—House Sponsor: Representative Otto*

Several years ago, the Texas Department of Transportation (TxDOT) acquired large tracts of land throughout the state to later be used as possible right-of-way for highway expansion projects. Some of this land cannot be used for highway expansion and has been deemed surplus property by TxDOT and could be sold to another public entity. However, under current law, TxDOT can only sell this property for fair market value, which often far exceeds the original purchase price of the property. There are several governmental entities across the state that could use this property for the public's benefit. One such entity is Polk County, which would like to build a community college. This bill:

Requires, not later than September 30, 2009, TxDOT to transfer to Polk County certain real property described.

Requires the county, on the effective date of the transfer of the property to pay an amount to reimburse TxDOT for TxDOT's actual costs to acquire the property.

Requires that the amount, if TxDOT cannot determine that amount, be determined based on the average historical right-of-way acquisition values for right-of-way located in proximity to the property on the date of original acquisition of the property by TxDOT.

Requires that money received by TxDOT under this subsection be deposited in the state highway fund and used in the TxDOT district in which the property is located.

Requires that the money received by TxDOT be deposited in the state highway fund and used in the TxDOT district in which the property is located.

Requires that the instrument of transfer provide that Polk County may use the property only for a purpose that benefits the public interest of Texas, and requires Polk County to pay TxDOT a certain amount if the county uses the property for any other purpose.

Requires TxDOT to retain custody of the instrument of transfer after the instrument of transfer is filed in the real property records of the county.

Requires Polk County to pay any transaction fees resulting from the transfer of property.

Communications by Texas Ethics Commission Regarding Sworn Complaints—S.B. 1807

by Senator Zaffirini—House Sponsor: Representative Pena

Current law requires the Texas Ethics Commission (TEC) to send each written notice, decision, and report regarding the filing of a sworn complaint by registered or certified mail, restricted delivery, return receipt requested. This bill:

Authorizes TEC to send a person any additional notices regarding the filing of a sworn complaint by regular mail unless the person has notified TEC to send all notices regarding the complaint by registered or certified mail, restricted delivery, return receipt requested.

Membership of the Advisory Board on Cosmetology—S.B. 1920

by Senator Mike Jackson—House Sponsor: Representative Legler

Under current law, the Advisory Board on Cosmetology (board), under the Texas Commission of Licensing and Regulation (TCLR), consists of one member who holds a license for a beauty shop that is part of a chain of beauty shops, one member who holds a license for a beauty shop that is not part of a chain of beauty shops, one member who holds a private beauty culture school license, and two members who each hold an operator license. There is no voting member on the board who represents the interests of community colleges or high schools, which also offer cosmetology classes, or the public. This bill:

Provides that the Advisory Board on Cosmetology consists of seven members, appointed by the presiding officer of TCLR, with TCLR's approval, including one member who represents a licensed public secondary or postsecondary beauty culture school or program and one public member.

Transfer of Certain State Property from TDCJ to Coryell County—S.B. 2228

by Senator Averitt—House Sponsor: Representative Sid Miller

Coryell County wants to build a new county jail. The Texas Department of Criminal Justice (TDCJ) has a small parcel of land that is not being used for TDCJ-related activities. This bill:

Requires TDCJ, not later than November 1, 2009, to transfer to Coryell County the real property described by this Act.

Requires Coryell County to use the property only for a purpose benefiting the public interest of the state.

Provides that if Coryell County no longer uses the property for such purpose, ownership automatically reverts to TDCJ.

Requires TDCJ to transfer the property by an appropriate instrument of transfer.

Sets forth what the instrument of transfer must contain.

Requires TDCJ to grant Coryell County certain utility easements that are mutually beneficial and agreed upon by TDCJ and Coryell County.

Confidentiality and the State Commission on Judicial Conduct—S.B. 2325 [VETOED]

by Senator Hinojosa—House Sponsor: Representative Madden

The State Commission on Judicial Conduct (commission) functions like a grand jury when reviewing complaints against judges. Under current law, the attorney for a judge who is facing sanctions can subpoena commission members to disclose the identities of those members who voted in favor of sanctions. This bill:

Provides that the discussions, thought processes, or individual votes of members of the commission, commission employees, and the commission's special counsel, as well as the identity of a confidential complainant or informant, are confidential and privileged, unless expressly waived in writing by the commission or by a confidential complainant or informant or that individual's legal representative.

Change of Election Date for Certain Political Subdivisions—H.B. 401

by Representative Raymond et al.—Senate Sponsor: Senator Duncan

The law authorizing certain political subdivisions to change the date of their general election to another authorized uniform election date expired on December 31, 2005. Allowing political subdivisions, such as municipalities and water districts, to change their election date to the November uniform election date, which is often when county elections are held, will reduce costs incurred by those political subdivisions. This bill:

Authorizes the governing body of a political subdivision, other than a county, that holds its general election for officers on a date other than the November uniform election date to change, not later than December 31, 2010, the date on which it holds its general election for officers to the November uniform election date.

Eligibility of Volunteer Deputy Registrars—H.B. 488

by Representative Bohac et al.—Senate Sponsor: Senator Duncan

Volunteer deputy registrars are entrusted with the responsibility of officially registering voters in Texas and are appointed by county voter registrars. Current law only requires that a person be 18 years of age or older to be eligible as a volunteer deputy registrar. This bill:

Requires a person to not have been finally convicted of a felony, or if so convicted, to have fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court, or to have been pardoned or otherwise released from the resulting disability to vote.

Voter Registration Through Federal Postcard Application—H.B. 536

by Representative Anchia et al.—Senate Sponsor: Senator Van de Putte

The federal Uniformed and Overseas Citizens Absentee Voting Act, enacted in 1986, requires states to permit certain members of the United States uniformed services and merchant marine, their family members, and U.S. citizens temporarily residing outside of the United States to register and vote absentee in elections for federal offices. Absentee voters covered by the Act may submit a federal postcard application obtained online or at U.S. embassies and consular offices abroad. Current state law, however, does not authorize the use of such federal postcard applications as a method of voter registration when the person returns home from abroad to vote in person in the county in which the voter resides. This bill:

Provides that the submission of a federal postcard application constitutes an application for voter registration at the voting residence address stated on the application, unless the person indicates on the federal postcard application that the person is residing outside the U.S. indefinitely.

Electronic Transmission of a Federal Postcard Application for Voter Registration—H.B. 551

by Representatives Madden and Pena—Senate Sponsor: Senator Harris

The federal Uniformed and Overseas Citizens Absentee Voting Act (Act), enacted in 1986, requires states to permit certain members of the United States uniformed services and merchant marine, their family members, and U.S. citizens temporarily residing outside of the United States to register and vote absentee in elections for federal offices. Absentee voters covered by the Act may submit a federal postcard application obtained online or at U.S. embassies and consular offices abroad. Current state law only addresses the submittal of federal postcard applications by mail. This bill:

Requires a federal postcard application to be submitted by mail or by electronic transmission of an image of the application.

Candidates Ineligible to Serve as Election Judges—H.B. 567

by Representative Sid Miller—Senate Sponsor: Senator Fraser

Current law prohibits certain persons from serving as election judges, including public officers, candidates for public office, employees or relatives of candidates for public office, among others. However, precinct chairs are authorized to serve as election judges even if their name is placed on a contested ballot as a candidate for election. This bill:

Provides that a person who is a candidate in an election for a contested public or party office is ineligible to serve as an election judge or clerk in any precinct in which the office sought is to be voted on in an election to be held on the same day as that election.

Provides an exception for county clerks and precinct chairs who are unopposed and therefore declared elected to the office.

Countywide Elections and Polling Place Signs—H.B. 719

by Representative Flynn—Senate Sponsor: Senator Duncan

Generally, the Election Code requires each election precinct to be served by one polling place located within the boundaries of the precinct, and voters are assigned to a particular precinct based on the address of their residence. Current law, however, authorizes voters to vote in any polling place located within their county during the time period for early voting but not on election day. This may create problems for voters who work outside of their precinct, or otherwise find themselves outside of their precinct, on election day.

H.B. 758, 79th Legislature, Regular Session, 2005, required the secretary of state to implement a pilot program to evaluate the use of countywide polling places for the general election. The bill also required the secretary of state, at the conclusion of the program in January 2007, to file a report with the legislature providing suggestions and recommendations regarding future use of countywide polling places. In 2007, the law was amended to extend the expiration of the pilot program until January 2009.

Many polling places hold joint primary elections, allowing voters registered with either political party to vote at the same location. Often times, the signs that assist the voters in locating the polling place are decorated with signs, symbols, or colors that are associated with a particular party, causing confusion to voters wishing to vote for another political party. This bill:

Requires the secretary of state to implement a program to allow five counties to establish countywide polling places after meeting certain requirements.

Requires that a sign used to indicate the location of a polling place that holds an election for more than one political party either not contain the name of, or symbol representing, any political party or contain each name of, or each symbol representing, a political party that is holding an election at the polling place.

Time Required to Appoint Election Judges in Certain Counties—H.B. 1145

by Representative Betty Brown—Senate Sponsor: Senator Fraser

Current law requires the commissioners court of a county to appoint election judges for each regular county election precinct at its July term. The commissioners court selects the election judges from a list provided by the county chair of a political party. However, in certain counties, a newly elected county chair of a political party takes office in the beginning of May with a number of issues to address, not allowing much time to compile a list of potential election judges for the commissioners court by July. This bill:

Extends the time required for a commissioners court in a county with a population of 500,000 or less to appoint election judges until its August term.

Deadline for Certifying Nominees for President and Vice President—H.B. 1193

by Representative Hancock et al.—Senate Sponsor: Senator Duncan

Current law requires political parties to certify in writing the names of its nominees for president and vice president of the United States in a presidential general election by the 70th day before the presidential election day. Generally, a political party's nominees for president and vice president are confirmed at the party's national nomination convention; however, the national convention may occur after the deadline for certifying the names of the nominees. This bill:

Entitles a political party to have the names of its nominees for president and vice president of the United States placed on the ballot in a presidential general election if the party's state chair signs and delivers a written certification to the secretary of state before the later of 5 p.m. of the 70th day before presidential election day or 5 p.m. of the first business day after the date of final adjournment of the party's national presidential nominating convention.

Notice of Voter Complaint Information—H.B. 1256

by Representatives Allen and Gutierrez—Senate Sponsor: Senator Ellis

Current law requires that notice of voters' rights be posted at each polling place, including the voter's right to report an abuse and file an administrative complaint with the secretary of state, as well as information regarding the voting rights hotline. This bill:

Requires that notice be posted in a polling place easily visible to voters that informs voters of who to call or write to if a voter has a complaint about the conduct of the election.

Sets forth the requirements of the information to be included in the notice of voter complaint information.

Certain Information About Candidates Filed With the Secretary of State—H.B. 1265

by Representative Hochberg—Senate Sponsor: Senator Ellis

Current law requires an individual planning to run for office to file a designation of a campaign treasurer with a particular entity, depending on the office for which the candidacy is intended, before an application for a place on a ballot in a primary election or nomination by a political party. A potential candidate is prohibited from accepting any campaign contributions or making any campaign expenditures, including the expenditure for the application filing fee, without the designation of a campaign treasurer. Once a campaign treasurer has been designated, the candidate is required to file finance reports with the Texas Ethics Commission (TEC).

Current law requires political parties to submit lists of candidates who have filed an application for nomination or an application for placement on the ballot to the secretary of state prior to the party's convention, who then forwards the lists to TEC upon request. However, these lists do not include any information about when the candidates filed the designation of campaign treasurer or their applications for nomination by the political party or placement on the ballot.

TEC cannot enforce campaign finance reporting requirements unless it is aware of the date the candidate filed the designation of a campaign treasurer or an application for nomination or place on a ballot. This bill:

Requires the state chair or county chair of a political party to deliver a list of each candidate filing an application for a place on a ballot and a list of each candidate filing an application for nomination by a political party to the secretary of state, and requires that both lists include the date on which the candidate filed the respective application.

Certain Information Included in the Voter Registration Application—H.B. 1448

by Representative Allen—Senate Sponsor: Senator Ellis

Some eligible voters have found that the voter registration application is confusing. The registration application requires that an applicant enter his or her driver's license or government-issued identification number, but if the applicant does not have a driver's license or government-issued identification number, the applicant must check a box to that effect and enter the last four digits of his or her Social Security number. If the applicant has not been issued a Social Security number, the applicant must check another box certifying that fact. Some voters who do not have a driver's license or government-issued identification number have entered their Social Security number without checking the appropriate box. That box must be checked in order to allow the applicant's Social Security number to be used to verify the applicant's registration information, otherwise, the voter registration application is invalid. This bill:

Deletes existing text requiring that a voter registration application include separate statements certifying that the applicant has not been issued a driver's license or personal identification card or that the applicant has not been issued a Social Security number and replaces it with a single statement certifying that the applicant has not been issued a driver's license number, personal identification card, or a Social Security number.

Verifying Information in Voter Registration Application—H.B. 1457 [VETOED]

by Representative Hochberg—Senate Sponsor: Senator Duncan

Errors by voter registration clerks when entering voter registration application information have caused a number of eligible voters to have their applications delayed or rejected, prohibiting them from voting. Such errors may be easily identified when the voter registration application is compared to the applicant's driver's license information by the secretary of state, as is currently required; however, the secretary of state has no authority to correct such errors and therefore, must reject the application. This bill:

Requires the secretary of state to adopt rules establishing standards used for the verification of information on a voter registration application, including providing a process by which the secretary of state verifies an applicant's Texas driver's license number or Department of Public Safety (DPS) issued personal identification card number if a minor correction in the applicant's last name or date of birth would lead a reasonable person to conclude that the number submitted is the correct number for that applicant.

Requires the secretary of state to submit to the registrar certain information used in the verification process that corresponds to the Texas driver's license number, DPS-issued personal identification card number, or Social Security number submitted by the registrar in certain situations.

Requires a registrar to review the information provided by the secretary of state, and requires the registrar, if the registrar determines that a governmental clerical error was made in processing or submitting the application, to correct the registration record and submit a corrected record to the secretary of state.

Requires a registrar to deliver written notice of the reason for the rejection of a voter registration application to the applicant, including the reason for failure if the secretary of state fails to verify the application.

Cell Phone Use by Persons Employed at Polling Places—H.B. 1493

by Representative Tracy King—Senate Sponsor: Senator Zaffirini

The Election Code was amended by the 80th Legislature to prohibit the use of a wireless communication device within 100 feet of a voting station or any mechanical or electronic means of recording images or sound within 100 feet of a voting station. Those amendments provided exceptions for an election officer in conducting the officer's official duties and for the use of election equipment necessary for the conduct of the election. Because public buildings, such as schools, are used as voting stations, persons employed in those buildings are prohibited under the current law from using their cell phones, which may hinder them from conducting their normal business activities. This bill:

Provides an exception to the prohibition of the use of certain devices for a person who is employed at the location in which a polling place is located while the person is acting in the course of the person's employment.

Communications Relating to an Election on a Measure by Political Subdivisions—H.B. 1720

by Representative Bohac—Senate Sponsor: Senator Deuell

Section 255.003, Election Code, prohibits an officer or employee of a political subdivision from spending or authorizing the spending of public funds for political advertising, except for a communication that factually describes the purpose of a measure if the communication does not advocate passage or defeat of the measure. This bill:

Prohibits an officer or employee of a political subdivision from spending or authorizing the spending of public funds for a communication describing a measure if the communication contains information that the officer or employee knows is false and is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

Provides that it is a Class A misdemeanor for an officer or employee of a political subdivision to knowingly spend or authorize the spending of public funds for political advertising or to spend or authorize the spending of public funds for a communication describing a measure if the communication contains false information that is reasonably likely to influence a voter.

Provides that it is an affirmative defense to prosecution for such an offense or the imposition of a civil penalty that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation of this statute in a written opinion issued by a court of record, the attorney general, or the Texas Ethics Commission (TEC).

Requires TEC, on written request of the governing body of a political subdivision that has ordered an election on a measure, to prepare an advance written advisory opinion as to whether a particular communication relating to the measure does or does not comply with the law

Municipal and School District Election Dates in Certain City—H.B. 1945

by Representative Herrero—Senate Sponsor: Senator Hinojosa

Section 41.0051 (General Election in Certain Coastal Cities), Election Code, enacted by the 70th Legislature, Regular Session, 1987, authorizes the general election for officers of a city that borders the Gulf of Mexico, has a population of more than 230,000, and held its general election for officers in on the first Saturday in April of 1987 to be held on any Saturday in April in odd-numbered years. That section also authorizes an independent school district located wholly or partly in that city to hold its general election for trustees on the same date as a joint election with the city. The purpose of the provision was to exempt Corpus Christi from the May and November uniform election date requirements provided in state law.

Subsequent amendments to the Election Code require independent school districts to hold elections for trustees of the school board with either a municipality in which the school district is located or with the general election for state and county officers. This bill:

Repeals Section 41.0051, Election Code.

Requires the governing body of a city that held its general election for officer in 2007 on a date authorized by Section 41.0051, Election Code and an independent school district located wholly or partly in that city to choose a uniform election date for its general election for officer in 2011 and subsequent years not later than December 31, 2009.

County Conventions Held Outside County—H.B. 2101

by Representative Pierson—Senate Sponsor: Senator Wendy Davis

During the 2008 primaries and subsequent conventions, some counties discovered that there was not a suitable location inside the county that could handle the expected record turnout for the county convention. Current law prohibits county conventions from being held outside of their county. This bill:

Authorizes the county executive committee for a political party to apply to the state executive committee of that political party to issue an order permitting the county convention to be held at a location outside the county.

Repealer of Computation of Age Provision in Election Code—H.B. 2181

by Representative Berman—Senate Sponsor: Senator Duncan

The Election Code currently provides that a person attains a specified age on the day before the anniversary of the person's birthday. This provision is confusing and subject to incorrect interpretation. This bill:

Repeals Section 1.016 (Computation of Age), Election Code.

Exemption from Restrictions for County Elections Administrator Employees—H.B. 2401

by Representative Keffer—Senate Sponsor: Senator Fraser

Current law exempts employees of a county elections administrator in a county with a population of one million or less from certain restrictions on political activities; however, there is still a need to maintain the security and integrity of elections in smaller counties. This bill:

Deletes existing text providing that the exemption for persons employed by the county election administrator's office from restrictions on political activities applies only to counties with a population of one million or more.

Testing and Security of Electronic Voting Systems—H.B. 2524

by Representative Anchia et al.—Senate Sponsor: Senator Carona

Currently, the secretary of state provides recommendations to counties relating to the accuracy, security, and reliability of certain electronic voting systems. Each individual county has discretion regarding whether to adopt any of the recommendations. This bill:

Codifies the secretary of state's recommendations relating to the testing of a voting system and the voting system security making the requirements applicable to all counties.

Authorized and Prohibited Political Expenditures Made by Certain Organizations—H.B. 2525

by Representative Todd Smith—Senate Sponsor: Senator Wentworth

Current law prohibits corporations and labor organizations from making political contributions, unless specifically authorized. One provision in the Election Code authorizes a corporation to make one or more political expenditures to finance the establishment or administration of a general-purpose committee. This bill:

Authorizes a corporation to make an expenditure for the maintenance and operation of a general-purpose committee, including expenditures for certain services and equipment.

Establishment of County Election Precincts for Certain Elections—H.B. 2847

by Representative Riddle—Senate Sponsor: Senator Dan Patrick

Current law requires county election precincts to be used as precincts for any political subdivision except in Harris County due to a population requirement. This bill:

Provides that the county election precincts are the election precincts for certain elections held on the November uniform election date of a political subdivision, other than a conservation or reclamation district located in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million, rather than to any other election of a political subdivision held on that date, other than a school district, that is not located in such a county.

Deletes existing text providing that the county election precincts are the election precincts for an election for a school district located in any county.

Employment of Temporary Personnel by County Election Administrators—H.B. 3061

by Representative Bohac—Senate Sponsor: Senator Huffman

Currently, county election administrators are allowed to use funds from the National Voter Registration Act of 1993 to hire temporary workers for 26 weeks each fiscal year. Due to the timing and frequency of elections, county election administrators need the ability to hire temporary workers for longer time periods. This bill:

Authorizes county election administrators to use state funds to defray expenses related to the employment of temporary voter registration personnel for not more than 39 weeks in a state fiscal year.

Notice of Election to County Clerk and Voter Registrar by Political Subdivision—H.B. 3062

By Representative Bohac—Senate Sponsor: Senator Huffman

Current law requires the governing body of a political subdivision, other than a county, that orders an election to deliver notice of the election to the county clerk of each county in which the political subdivision is located not later than the 60th day before election day. This bill:

Requires the governing body of a political subdivision, other than a county, that orders an election to deliver notice of the election to the voter registrar, in addition to the county clerk, of each county in which the political subdivision is located not later than the 60th day before election day.

Information Included on Voter Confirmation Notice and Response Forms—H.B. 3069

by Representative Bohac—Senate Sponsor: Senator Huffman

Current law requires a voter registrar, if the registrar has reason to believe that a voter's current residence is different from that indicated on the registration records, to deliver to the voter a written confirmation notice requesting confirmation of the voter's current residence. The law sets forth the information that is required to be included in the confirmation notice and confirmation notice response forms. This bill:

Requires that the official confirmation notice response form provide spaces for the voter to include all of the information that a person is required to include in an application to register to vote.

County Clerk's Use of Electronic Mail for Required Financial Statements—H.B. 3602

by Representative Paxton—Senate Sponsor: Senator Hegar

Currently, county clerks are required to mail two copies of a financial statement form to each county officer, candidate for county office, justice of the peace, or candidate for the office of justice of the peace; however, the use of electronic mail may be less costly and more efficient for providing such forms. This bill:

Requires a county clerk to mail or, at the request of the person required to file a financial statement send by electronic mail, two copies of the financial statement form.

Use of Electronic Mail by Texas Ethics Commission Regarding Filing Deadlines—H.B. 3922

by Representatives Pena and Naishtat—Senate Sponsor: Senator Zaffirini

The use of electronic mail may save a substantial amount of money in costs associated with mailing for the Texas Ethics Commission (TEC). This bill:

Authorizes TEC to notify by electronic mail persons responsible for filing a report with TEC of the deadlines for filing certain a report.

Time Period for Acceptance of Political Contributions by Judicial Candidates—H.B. 4060

by Representatives Todd Smith and Leibowitz—Senate Sponsor: Senator Wentworth

Current law prohibits judicial candidates from receiving political contributions during certain time periods; however, the time periods differ between candidates based on whether the candidate has an opponent in the general election. This bill:

Prohibits a judicial candidate or officeholder from knowingly accepting a political contribution except during a certain time period, regardless of whether the candidate or officeholder has an opponent.

Authority of Attorney General to Investigate Tampering With Voting Machines—S.B. 927

by Senator Huffman—House Sponsor: Representative Todd Smith

District attorneys and county attorneys have the authority to investigate and prosecute conduct relating to tampering with electronic voting machines under the Penal Code; however, the Penal Code does not authorize the attorney general to investigate or prosecute such conduct. This bill:

Provides that the attorney general has concurrent jurisdiction with a consenting local prosecutor to investigate or prosecute conduct relating to tampering with electronic voting machines.

Student Election Clerks—S.B. 1134

by Senator Duncan—House Sponsor: Representative Berman et al.

Current law requires a person to be a qualified voter to be eligible to serve as a clerk of an election precinct, which requires that the person be at least 18 years of age. It is becoming increasingly difficult to recruit election clerks. This bill:

Provides that a student is eligible to serve as a clerk of an election precinct if the student has the consent of the principal of the student's education institution and is 16 years of age or older, is a U.S. citizen, and has completed any training required by the entity holding the election.

Requires a school district to excuse a student from attending school for the purpose of serving as an election clerk.

Campaign Finance Report Filing Requirements for Judicial Candidates—S.B. 1142

by Senator Carona—House Sponsor: Representative Anchia

Current law requires that all political candidates and committees appoint a campaign treasurer and file campaign finance reports listing their contributions and expenditures with certain entities. Many campaign treasurer appointments and campaign finance reports are required to be filed with the Texas Ethics Commission by candidates, including judicial candidates, who are also required to file campaign finance reports with the county clerk. This creates a duplicate filing procedure for judicial candidates. This bill:

Deletes existing text requiring a report to be filed by a candidate for a judicial district office to also file with the county clerk.

Prohibition Against Political Contributions in Courthouse—S.B. 1152

by Senators Hinojosa and Zaffirini—House Sponsors: Representatives Anchia and Marquez

Current law prohibits a person from knowingly making a political contribution while in the capitol; however, there is no provision explicitly prohibiting a person from making a political contribution while in a courthouse. This bill:

Prohibits a person from knowingly making a political contribution while in a courthouse, in addition to while in the capitol.

Election Services Contract by Certain Political Subdivisions—S.B. 1402*by Senator Hinojosa—House Sponsor: Representative Pena*

There has been concern about the lack of oversight of elections in small political subdivisions that may compromise the integrity of the election process and affect constituent participation. This bill:

Requires the governing body of certain political subdivisions to request an election services contract with the county elections administrator to perform all duties and functions of the political subdivision in relation to an election that is authorized to be transferred if the political subdivision receives a petition requesting the contract signed by a number of registered voters residing in the political subdivision that is equal to or exceeds one percent of all votes cast in the most recent general election held by the political subdivision.

Runoff Election Report Filed by Political Committee—S.B. 1795*by Senator Zaffirini—House Sponsor: Representative Pena*

Current law requires the campaign treasurer of a specific-purpose committee that supports or opposes a candidate in an election and an ensuing runoff election to file a runoff election report not later than the eighth day before the runoff election; however, the statute does not require a political committee that did not participate in the initial election to file such a runoff report. This bill:

Requires any political committee that becomes involved in a runoff election to file an eight-day runoff report, regardless of whether it participated in the initial election.

Clarification of Certain Election Practices and Procedures—S.B. 1970*by Senator Duncan—House Sponsor: Representative Todd Smith*

Election laws regulating the administration of elections are complex and confusing. This bill:

Clarifies provisions in the Election Code relating to the cancellation of elections, notice of polling place locations, ballot requirements, voting system technicians, and certain notification and certification deadlines.

Accessibility Requirements for Precinct Conventions—S.B. 2067*by Senator Wendy Davis—House Sponsor: Representative Veasey*

Currently, state party executive committees are authorized to exempt a county party from the requirement that precinct conventions be subject to the same accessibility requirements of a polling place. This bill:

Requires the place selected for a precinct convention meet the same requirements for access by the elderly and persons with physical disabilities as a polling place.

Filing of Certain Financial Disclosure Reports by Commissioners Court—S.B. 2072*by Senator Duncan—House Sponsor: Representative Berman*

Current law authorizes the commissioners court of a county to contract with the secretary of state for the filing of financial disclosure reports; however, the secretary of state no longer handles the filing of such reports. This bill:

Deletes existing text authorizing the commissioners court to contract with the secretary of state for the filing of certain financial disclosure reports.

Communications by Political Subdivisions Regarding Election Measures—S.B. 2085

by Senator Wendy Davis—House Sponsor: Representative Hancock

Currently, the Election Code prohibits an officer or employee of a political subdivision from spending or authorizing the expenditure of public funds for political advertising; however, this prohibition is not intended to apply to a communication that factually describes the purpose of a measure if it does not advocate for passage or defeat of the measure. This bill:

Provides that it is an affirmative defense to prosecution for the offense of spending public funds for political advertising that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation of a written opinion issued by a court of record, the attorney general, or the Texas Ethics Commission (TEC).

Requires TEC, on written request of the governing body of a political subdivision that has ordered an election on a measure, to prepare an advance written advisory opinion as to whether a particular communication relating to the measure does or does not comply with the law.

Prohibits a corporation or labor organization from making expenditures for political consulting, certain communications, voter registration and get-out-the-vote drives, political fundraising, voter identification efforts, polling, and recruiting candidates.

Receiver for Certain Mineral Interests—H.B. 108*by Representative Phillips—Senate Sponsor: Senator Estes*

Receiverships are court orders placing property subject to a legal dispute under the control of an appointed individual to preserve and protect the property until the dispute is resolved. The Civil Practice and Remedies Code authorizes receivers to take charge and keep possession of the property, receive rents, and make transfers, among other actions. Receivers have a fiduciary duty to act in the best interests of the property under their control.

Section 64.091, Civil Practice and Remedies Code, authorizes a district court to appoint a receiver in an action brought by a person claiming ownership of or rights to certain mineral interests owned by a nonresident or absent defendant. The district court is authorized to appoint the county judge, county clerk, or any other resident of the county in which the property is located as receiver. However, if appointed receiver, the county clerk's duties relating to property in the county has the potential to conflict with his or her fiduciary duties relating to the mineral interests under dispute. This bill:

Removes county clerks and the clerks' successors from the list of persons authorized to be appointed as a receiver in actions brought by a person claiming ownership of or rights to a nonresident or absent defendant's mineral interest or leasehold interest under a mineral lease.

Seizure of Circuit Board of Gambling Device—H.B. 358*by Representative Flynn—Senate Sponsor: Senator Gallegos*

Law enforcement officials are authorized under current statute to seize illegal gambling devices upon the issuance of a proper search warrant. However, such devices are often large and cumbersome to maneuver and costly to transport and store. This bill:

Authorizes an officer to seize only the programmable main circuit board of a gambling device or equipment directed to be seized under a search warrant, carry the circuit board before the magistrate, and retain custody of the circuit board as the property seized pursuant to the warrant.

Texas Municipal Retirement System—H.B. 360*by Representative Kuempel et al.—Senate Sponsor: Senator Williams*

The Texas Municipal Retirement System (TMRS) was established in 1948 to provide retirement benefits to municipal employees in cities that choose to participate in TMRS. There are currently over 820 participating cities in Texas, ranging in size from one to 6,304 contributing members. Changes to the economic markets and the demographics of TMRS members over the years caused the TMRS board of trustees to identify and recommend legislative changes to the statute establishing TMRS. These changes will ultimately allow TMRS to further diversify its investment portfolio and to improve investment returns. This bill:

Requires the TMRS board of trustees to adopt a discount rate that is not less than five percent in developing an annuity purchase rate.

Requires TMRS to credit or charge to the account of a participating municipality net investment income or loss.

Prohibits the interest credited to the employees saving fund in a calendar year from being less than five percent.

Texas County and District Retirement System—H.B. 407

by Representative Kuempel—Senate Sponsor: Senator Williams

The Texas County and District Retirement System (TCDRS) is a non-profit public trust that provides pension, disability, and death benefits for eligible employees of participating counties and districts. TCDRS has approximately 600 county and district employer participants and serves over 190,000 county and district employees in Texas. TCDRS was created by legislation in 1967 and began operations in 1968. However, legislation is needed to update the plan, establish more efficient operations, improve procedures, and provide new options for members. This bill:

Limits the withdrawal of accumulated contributions by current employees.

Sets forth restrictions on withdrawals made by former employees who are rehired and have previously withdrawn their accounts.

Entitles members to be credited with service for qualified military service, up to 10 years of service time total for military service and service time under the Uniformed Services Employment and Re-employment Rights Act (USERRA).

Authorizes a retiring member to designate an effective service or disability retirement date not more than six months before TCDRS receives the retirement application.

Addresses administrative operations of TCDRS relating to audits, management of assets, and collection of contributions.

Liability for Trafficking of Persons—H.B. 533

by Representative Anchia et al.—Senate Sponsor: Senator Van de Putte

Human trafficking is the illegal transport of persons for the purpose of forced labor or services. Current law does not provide any method of relief for victims of human trafficking. This bill:

Provides that a person who engages in the trafficking of persons is liable to the person trafficked for damages, including damages for mental anguish, arising from the trafficking of that person.

Provides that it is not a defense to liability that a person who engages in human trafficking has been acquitted or has not been prosecuted or convicted.

Mileage Reimbursement for State Employees—H.B. 605

by Representatives Farabee and "Mando" Martinez—Senate Sponsor: Senator Estes

Current law concerning a state employee's mileage reimbursement does not account for employee safety in route planning by employees traveling on state business. This bill:

Provides that the number of miles traveled that are eligible for reimbursement under this subchapter may not exceed the number of miles of the most cost-effective reasonably safe route between the origin of the state employee's travel and the final duty point of the state employee.

Authorizes a state agency to consider, in determining the most cost-effective reasonably safe route, a route that provides the shortest distance between the origin of the state employee's travel and the final duty point, the route that provides the quickest drive time between the origin of the state employee's travel and the final duty point, and the

route that provides the safest road conditions between the origin of the state employee's travel and the final duty point.

Authorizes the number of miles traveled that are eligible for reimbursement to be determined by an employee's vehicle odometer reading or by a readily available electronic mapping service.

Authorizes a legislator's mileage reimbursement for the most cost-effective route between the origin of the member's travel and the final duty point.

Repeals Section 660.043(d) (relating to exceptions for reimbursable miles), Government Code.

Liability for Reasonable Costs in Alleged Ethics Violation—H.B. 677

by Representative Hartnett—Senate Sponsor: Senator Wentworth

The Texas Ethics Commission (TEC) is responsible for administering and enforcing laws relating to political contributions, expenditures, and advertising and the filing of certain financial statements by public officials, among other duties. The law authorizes a complaint to be filed with TEC against a person alleging the violation of a law enforced and administered by TEC. After a preliminary review and hearing, TEC is required to issue a decision regarding whether the alleged violation occurred and to resolve and settle the complaint. If TEC is unsuccessful at resolving and settling the complaint, a formal hearing is held and a final decision is issued by TEC.

Current law prohibits TEC from disclosing information and facts relating to an alleged violation provided in a complaint or during the preliminary review and hearing process; however, a complainant is not prohibited from publicly commenting on or discussing the complaint and alleged violation. Such public comments may compromise a candidate's or public official's position, especially during the days preceding an election, causing the candidate or public official to defend himself or herself against the allegations, which can be a costly and time-consuming process. This bill:

Provides that, in disposing of a sworn complaint relating to an alleged violation within TEC's jurisdiction, if TEC determines that a violation has not occurred, a complainant is liable for the respondent's reasonable and necessary attorney's fees and other costs incurred in defending against the complaint.

Erecting or Maintaining Certain Outdoor Advertisements—H.B. 875

by Representatives Eissler and Harless—Senate Sponsor: Senator Carona

The 80th Legislature, Regular Session, 2007, enacted H.B. 412 and H.B. 413 establishing civil penalties for erecting, maintaining, or commissioning the erection of signs in illegal places. These signs are typically known as bandit signs or "litter on a stick." The bills authorized a county attorney or a district attorney to file suit to enforce the law and to collect penalties associated with a judgment. The Harris County attorney filed suit against several violators and discovered two unintentional drafting errors that created ambiguity concerning the county's jurisdiction. Reasonable attorney's fees are recoverable under other sections of the Transportation Code, but are not recoverable under provisions governing outdoor signs on public rights-of-way. This bill:

Authorizes a district or county attorney or a municipal attorney to recover reasonable attorney's fees incurred in an action brought for the unauthorized placement of an outdoor sign on the right-of-way of a public road.

Community Development Block Program Appellate Process—H.B. 1079

by Representative Kolkhorst—Senate Sponsor: Senator Estes

The Office of Rural Community Affairs (ORCA) disperses federal money it receives through the Community Development Block Grant (CDBG) program. Cities with populations of more than 50,000 and counties with populations of more than 200,000 seeking CDBGs may apply directly with the federal Department of Housing and Urban Development. Smaller Texas cities and counties apply to ORCA for CDBG funding. Each of the councils of government has a regional review committee responsible for setting funding priorities and scoring the applications accordingly, which ORCA then factors into its funding decisions. The State Community Development Review Committee (state review committee) is responsible for reviewing grant applications and advising the executive director on funding decisions. The state review committee is composed of 12 locally elected officials appointed to two-year terms by the governor. This bill:

Authorizes an applicant for a grant, loan, or award under a community development block grant program to appeal a decision of the executive director of ORCA by filing an appeal with the ORCA board (board).

Requires the board to hold a hearing on the appeal and render a decision.

Repeals Section 487.353 (State Community Development Review Committee), Government Code.

Recognition Week to Celebrate Native Texas Plants—H.B. 1739

by Representative Donna Howard—Senate Sponsor: Senator Hegar

Native plants are plants that have evolved in a particular region over many thousands of years. Native vegetation, unlike cultivated, non-native landscaping, does not require the use of lawn maintenance equipment, a major contributor to air pollution. The disruption of Texas' native habitats and the replacement of native plants with invasive species can have a devastating impact on Texas' ecosystem. Therefore, educational efforts to improve understanding of native plants are vital to Texas. This bill:

Provides that the third full week in October is Texas Native Plant Week.

Authorizes Texas Native Plant Week to be regularly observed in public schools and other places with programs to appreciate, explore, and study Texas native plants.

Retirement Benefits of Municipal Employees Who Resume Work After Retiring—H.B. 1979

by Representative Rodriguez—Senate Sponsor: Senator Watson

In January of 2009, certain law enforcement employees were transferred from the City of Austin's Public Safety Emergency Management Department to the Austin Police Department. The law, as written, does not allow these officers, who are now contributing to the police retirement system, the opportunity to collect the retirement benefits that they accumulated from the municipal retirement system. Currently, "normal retirement age" is defined as age 62 or 55 years of age with 20 years of creditable service. This bill:

Defines "normal retirement age" to include 23 years of creditable service, regardless of age.

Entitles a member who retires after reaching normal retirement age and returns to work with the employer in a position requiring participation in another retirement system to continue receiving the retirement allowance.

Provides that a retiree who resumes regular full-time employment with an employer automatically resumes membership as an active contributory member if the current employment is in a position that is not required to participate in another retirement system sponsored by the employer.

Requires that the retirement allowance of certain retirees returning to work in a position that requires participation in the same retirement system be suspended for at least six months.

Liability of Volunteer Audiologists and Speech-Language Pathologists—H.B. 1995

by Representatives McCall and Button—Senate Sponsor: Senator Fraser

Current law provides that certain volunteer health care providers are immune from civil liability for any act or omission resulting in injury to a patient under certain circumstances. The statutory definition of "volunteer health care provider" includes physicians and dentists, among other health care providers, but it does not include speech-language pathologists and audiologists. This bill:

Provides that an audiologist or speech-language pathologist who, without compensation or expectation of compensation, conducts a speech, language, or hearing evaluation or screening is immune from civil liability for any act or omission resulting in the death or injury to the patient under certain circumstances.

Computer Security Breaches—H.B. 2004

by Representative McCall—Senate Sponsor: Senator Ellis

If sensitive personal information was, or is believed to have been, acquired by an unauthorized person during a breach of system security, the breach is required to be disclosed to the owner of that information by a person who conducts business in this state and owns or licenses computerized data that contains sensitive personal information and any person who maintains computerized data that includes sensitive personal information the person does not own. Disclosure is required to be made as quickly as possible after discovering the breach, but may be delayed at the request of a law enforcement agency that determines the notification will impede a criminal investigation, until the agency determines the notification will not compromise the investigation. Disclosure may be made in writing or electronically. If the cost of providing notice would exceed \$250,000, the number of affected persons exceeds 500,000, or the person has insufficient contact information, notice may be given by electronic mail, conspicuous posting on the person's website, or notice published in or broadcast on major statewide media. This bill:

Redefines "sensitive personal information" to include information that identifies an individual and relates to the physical or mental health or condition of the individual, the provision of health care to the individual, or payment for the provision of health care to the individual under Section 521.002 (Definitions), Business and Commerce Code, Section 2054.1125 (Security Breach Notification by State Agency), Government Code, and Section 205.010 (Security Breach Notification by Local Government), Local Government Code.

Defines "business" as a nonprofit athletic or sports association under Section 521.052 (Business Duty to Protect Sensitive Personal Information), Business and Commerce Code.

Includes data that is encrypted if the person accessing the data has the key required to decrypt the data in the definition of "breach of system security" under Section 521.053 (Notification Required Following Breach of Security of Computerized Data), Business and Commerce Code, and Section 205.010, Local Government Code.

Requires a state agency that owns, licenses, or maintains computerized data that includes sensitive personal information to comply, in the event of a breach of system security, to the same extent as a person who conducts business in this state.

Provides that for a covered entity that is a governmental unit, an individual's protected health information includes any information that reflects that an individual received health care from the covered entity and is not public information and is not subject to disclosure under Chapter 552 (Public Information), Government Code.

September 11th as Designated Holiday or Vacation Day for Fire Fighters—H.B. 2113

by Representative Walle et al.—Senate Sponsor: Senator Gallegos

Current law provides that a member of a fire or police department is entitled to the same number of vacation days and holidays granted to other municipal employees. In honor of those fire fighters and peace officers who died on September 11th, 2001, H.B. 2113 designates that date as a vacation day or holiday granted to a fire fighter. This bill:

Designates September 11th as one of the vacation days or holidays granted to a fire fighter.

Requires police officers to be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees.

Mediation of Out-of-Network Claim Disputes About Facility-Based Physicians—H.B. 2256

by Representative Hancock et al.—Senate Sponsor: Senator Duncan

Balance billing occurs when a physician bills a patient for a portion of the medical expenses that is not covered by the patient's insurance. This often occurs when a physician works for a facility and does not have a contract with the same health benefit plans as the facility. Current law does not provide a remedy for patients who receive the unexpected medical bill from the facility-based physician. This bill:

Sets forth an out-of-network claim dispute resolution process for enrollees responsible to a facility-based physician for an amount greater than \$1,000 on a claim for a medical service or supply provided by a facility-based physician in a hospital that is has a contract with the insurer.

Establishment of ERS Qualified Roth Contribution Program—H.B. 2283

by Representative Truitt—Senate Sponsor: Senator Deuell

The TexaSaver program is a voluntary retirement savings program offered through the Employees Retirement System of Texas (ERS) for employees of state agencies. This deferred compensation investment plan allows state employees to contribute a percentage of their salary or a dollar amount to a retirement account before income taxes are taken out. This bill:

Authorizes the board of trustees of ERS to establish a qualified Roth contribution program under which an employee is authorized to designate all or a portion of the employee's contribution under certain deferred compensation investment plans as a Roth contribution at the time the contribution is made.

Authorizes an employee participating in the deferred compensation investment plan to elect to end participation in the plan, to contribute to a different investment product, to contribute a different amount to the plan, or to designate all or a portion of the employee's contribution as a Roth contribution.

Authorizes ERS, subject to a separate legislative appropriation for that purpose, to make matching contributions to a deferred compensation plan on behalf of employees participating in the plan solely from that appropriation.

Definition of "Minor" in Awarding Lottery Prize Money—H.B. 2509*by Representative Geren—Senate Sponsor: Senator Wentworth*

Current law prohibits the sale of a lottery ticket to a person younger than 18 years of age; however, the law allows a person 18 years of age or older to purchase a ticket to give as a gift to an individual younger than 18 years of age. Section 466.405, Government Code, authorizes the Texas Lottery Commission to award prize money on a winning ticket in an amount of \$600 or more to a minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or of the minor's guardian as custodian for the minor. "Minor" is defined as a person who is at least 21 years of age, which conflicts with other provisions of the law relating to the state lottery. This bill:

Defines "minor" as an individual who is younger than 18 years of age.

Revision of Certain Special Districts—H.B. 2619*by Representative Frost—Senate Sponsor: Senator Duncan*

The Texas Legislative Council is required by law to carry out a complete nonsubstantive revision of the Texas statutes. This bill:

Codifies, without making substantive changes, various statutes concerning special districts in the Special District Local Laws Code.

Provision of Landowner's Bill of Rights by Entity With Eminent Domain Power—H.B. 2685*by Representative Callegari et al.—Senate Sponsor: Senator Nichols*

Current law requires a governmental or private entity with eminent domain authority to provide a landowner's bill of rights statement to a property owner before the entity begins negotiating with the property owner. This bill:

Requires the governmental or private entity with eminent domain authority to provide the landowner's bill of rights statement to the property owner not later than the seventh day before the date the entity makes a final offer to the property owner.

Requires the governmental or private entity with eminent domain authority to provide a copy of the landowner's bill of rights statement to a landowner before or at the same time as the entity first represents in any manner to the landowner that the entity possesses eminent domain authority.

Directing Payment of Certain Miscellaneous Claims Against the State—H.B. 2729*by Representatives Pitts and Edwards—Senate Sponsor: Senator Ogden*

Certain claims against the state are prohibited from being paid by the comptroller of public accounts under Section 403.074 (Miscellaneous Claims), Government Code; these claims include claims in excess of \$50,000 or claims that are more than eight years old. This bill:

Proposes to make an appropriation and direct payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this legislation. Makes appropriations from the General Revenue Fund, the State Highway Fund, and the General Revenue Account-Solid Waste Disposal Fees Fund to pay itemized claims plus interest, if any, against the state.

Contracts for Geoscience and Landscape Architecture Services—H.B. 2820 [VETOED]

by Representatives Chisum and Chavez—Senate Sponsor: Senator Wentworth

Currently, the Texas Professional Services Procurement Act allows a governmental entity to contract with providers of certain professional services without having to comply with the more stringent procurement requirements for consulting services. A governmental entity may contract with a professional services provider for a fair and reasonable price on the basis of the provider's demonstrated competence and qualifications. This bill:

Includes professional geoscience in the definition of "professional services."

Adds geoscientists and landscape architects to the list of professional service providers for which a governmental entity would have to first select the most highly qualified provider and attempt to negotiate a fair and reasonable price before selecting the next most highly qualified provider.

Creation of Grant for Volunteer Income Tax Assistance Programs—H.B. 2888 [VETOED]

by Representative "Mando" Martinez—Senate Sponsor: Senator West

The federal Free File program provides free federal income tax preparation and electronic filing for eligible taxpayers through a partnership between the Internal Revenue Service (IRS) and a group of private sector tax software companies. These private sector companies provide services across the U.S., often setting individual eligibility requirements, such as income and age limits. Some local community organizations also operate volunteer income tax assistance programs (VITAs), in which volunteers provide free income help for those with a low to moderate income, as well as for the elderly, disabled, and those with limited proficiency in English. This bill:

Establishes a VITA grant program operated by the Texas Department of Housing and Community Affairs to support the implementation and operation of VITAs, providing for administration of the VITA grant program, setting forth eligibility requirements, and limiting funding.

Authority to Conduct Charity Raffles by Wildlife Conservation Associations—H.B. 3113

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

Current law authorizes certain nonprofit organizations to conduct charity raffles to raise funds for their activities. Wildlife conservation associations are not included in the list of nonprofit organizations that are authorized to conduct such raffles. This bill:

Prohibits eligible nonprofit wildlife conservation associations from using any proceeds from a raffle to attempt to influence legislation or participate or intervene in a political campaign on behalf of a candidate for public office in any manner.

Authorizes a nonprofit wildlife conservation association to conduct two raffles each year.

Notice of Complaint Filed by Texas Ethics Commission—H.B. 3216

by Representative Naishtat—Senate Sponsor: Senator Zaffirini

Current law requires the Texas Ethics Commission (TEC) to send written notification of the receipt of a complaint within five business days to a complainant and the respondent. This bill:

Requires TEC to immediately attempt to contact and notify the respondent of a complaint by telephone or electronic mail.

Complaint Form Requirements by Texas Ethics Commission—H.B. 3218

by Representative Naishtat—Senate Sponsor: Senator Zaffirini

Current law authorizes individuals to file sworn complaints with the Texas Ethics Commission (TEC) alleging that a person subject to the laws administered and enforced by TEC has violated a rule adopted by or law administered and enforced by TEC. However, the law does not require a complainant to file a complaint on a form prescribed by TEC. This bill:

Requires a sworn complaint to be filed on a form prescribed by TEC and include certain information.

Requires an individual to be a resident of this state to be eligible to file a sworn complaint with TEC.

Requires TEC to dismiss a complaint if TEC determines that the complaint was filed at the direction or urging of a person who is not a resident of this state.

Requires TEC, if TEC determines that a complaint does not comply with the form requirements, to send notice, explaining how the complaint fails to comply, and a copy of the rejected complaint to the respondent.

Exemptions from Texas Ethics Commission Lobby Registration Requirements—H.B. 3445

by Representatives Anchia and Kolkhorst—Senate Sponsor: Senator Deuell

Current law requires lobbyists to register with the Texas Ethics Commission if they meet either the compensation and reimbursement threshold or the expenditure threshold, with certain exceptions, including for a person who communicates to a member of the executive branch concerning purchasing decisions of a state agency or negotiations regarding such decisions. This bill:

Exempts certain persons from the lobby registration requirements of TEC for communicating in certain capacities or to certain persons regarding certain purchasing decisions.

Memorial Monuments on Capitol Grounds—H.B. 4114

by Representatives Martinez Fischer and Herrero—Senate Sponsor: Senator Zaffirini et al.

Currently, there are no statues, memorials, or commemorations on the Capitol grounds that pay tribute to the contributions made by Tejanos to Texas. This bill:

Requires the State Preservation Board to establish a Tejano memorial monument on the Capitol grounds.

Designation of Certain Times for Recognition by Concurrent Resolution—H.B. 4767

by Representatives Homer and Phillips—Senate Sponsor: Senator Ellis

Chapter 391 (Resolutions for State Symbols and Place Designations), Government Code, governs the designation of state symbols and place designations made by the legislature by a resolution approved by each house of the legislature. This bill:

Adds days, weeks, or months to the designations made by the legislature by resolution.

Defines “date designation” as a special observance authorized by the legislature that annually recognizes and honors a culturally or historically significant day, week, or month in the state.

Authorizes the legislature to assign more than one designation to a day, week, or month.

Requires the legislature to be presented with information related to the historical or cultural significance of the day, week, or month for recognition before it makes the designation.

Provides that the designation expires on the 10th anniversary of the date the legislature adopts the resolution but can be renewed at any time.

Repeals Sections 391.002(c) (relating to requiring a resolution proposing designation of an object as a state symbol to be referred to and reported by the appropriate committee in each house) and 391.003(f) (relating to requiring a resolution proposing a place designation to be referred to and reported by the appropriate committee in each house), Government Code.

Taking of Private Property and Establishing a National Research University Fund—H.J.R. 14

by Representative Corte et al.—Senate Sponsor: Senator Duncan

Both the United States Constitution and the Texas Constitution require that the taking of private property be for a public use and that the owner of the property being taken be fairly compensated. There is some controversy over what circumstances constitute a public use.

Currently, Texas only has two public research universities of national prominence. Resources are needed to establish additional nationally prominent research universities in this state. This resolution:

Proposes a constitutional amendment prohibiting the taking, damaging, or destroying of private property for public use unless the action is for the ownership, use, and enjoyment of the property by the state, a political subdivision of the state, the public at large, or entities granted the power of eminent domain under law or for the elimination of urban blight on a particular parcel of property, but not for the primary purpose of economic development or enhancement of tax revenues.

Proposes a constitutional amendment establishing the national research university fund for the purpose of providing a dedicated, independent, and equitable source of funding to enable emerging research universities in this state to achieve national prominence as major research universities.

Repeals a provision in the Texas Constitution establishing the higher education fund.

Post-Ratification of Amendment XXIV to U.S. Constitution—H.J.R. 39

by Representative Allen et al.—Senate Sponsor: Senator Ellis et al.

Amendment XXIV to the United States Constitution prohibits the imposition of a poll tax upon person wishing to vote in an election and was ratified in 1964 by 38 of the 50 states. Texas is one of the 12 states that failed to ratify the amendment at that time. Several other states have subsequently ratified the amendment as a symbolic gesture. This resolution:

Proposes that the Legislature of the State of Texas, as a symbolic gesture, hereby post-ratifies Amendment XXIV to the Constitution of the United States.

Officers of Texas State Guard Authorized to Hold Other Civil Offices—H.J.R. 127

by Representatives Phil King and Chavez—Senate Sponsor: Senator Carona

A provision in the Texas Constitution prohibits a person from holding more than one civil office of emolument at one time, except for certain persons serving as an officer in a branch of the military. At the time this provision was enacted, the Texas State Guard and other branches of the Texas military forces were not very active and therefore, not included in the exception. This bill:

Proposes a constitutional amendment including officers and enlisted members of the Texas State Guard and any other active militia or military force organized under Texas law to the list of civil offices of emolument exempt from the prohibition against holding or exercising more than one civil office of emolument at the same time.

Texas Holocaust and Genocide Commission—S.B. 482

by Senator Ellis et al.—House Sponsors: Representatives Chisum and Cohen

Millions were killed during World War II by the National Socialist German Workers' Party, also known as the Nazis. It is important to educate the public about the Holocaust to ensure that such genocide incidents will never occur again. This bill:

Establishes the Texas Holocaust and Genocide Commission to take certain actions to enhance public awareness of the Holocaust and other genocides.

Recognition Day for Dr. Hector P. Garcia—S.B. 495

by Senator Hinojosa et al.—House Sponsors: Representative Herrero et al.

Dr. Hector P. Garcia contributed significantly to the Mexican-American civil rights movement. He was a distinguished physician, a recipient of the Presidential Medal of Freedom, and a World War II hero who was awarded a Bronze Star medal with six battle stars. In 1948, he founded the American GI Forum, which promotes civil rights protections for Hispanic veterans and all Americans. This bill:

Establishes the third Wednesday of September as Dr. Hector P. Garcia Day.

State Travel Policies and Procedures—S.B. 745

by Senator Duncan—House Sponsor: Representative Solomons

The comptroller of public accounts (comptroller) can initiate an electronic funds transfer to pay or reimburse a travel expense only if a state agency submits a voucher that requests the payment or reimbursement. The current voucher system contains standard accounting information not specific to the requested travel reimbursement. This bill:

Authorizes advance written approval for any travel related to official state business for which a reimbursement for travel expenses is claimed or for which an advance for travel expenses to be incurred is sought to be communicated electronically.

Removes provisions that require a copy of the written approval to be submitted with a travel voucher to the comptroller.

Modifies provisions relating to the supportive information and documentation that are required to be submitted with a travel voucher.

Aggregation of Value of Funds Misused in Offense of Abuse of Official Capacity—S.B. 828

by Senator Whitmire—House Sponsor: Representative Madden

Current law does not allow for the aggregation of the amounts of separate transactions relating to the offense of abuse of office to enhance the degree of the offense. This bill:

Enables the aggregation of the value of the use of things misused in conduct that is an abuse of official capacity.

Vacation and Sick Leave During Military Leave of Absence—S.B. 833

by Senator Carona—House Sponsor: Representatives Chris Turner and Vaught

A state employee called to active duty during a national emergency as a member of the armed forces reserve is entitled to an unpaid leave of absence. A state employee called to active duty continues to accrue state service credit for longevity pay purposes, but not vacation or sick leave. Any vacation or sick leave accrued by the employee before being called to active duty is retained, and the balance is credited to the employee on his or her return to state employment. This bill:

Provides that an employee on an unpaid leave of absence due to military duty continues to accrue credit for longevity pay, vacation leave, and sick leave.

Provides that leave earned while on an unpaid leave of absence during military duty is credited to the employee's balance when the employee returns to active state employment.

Provides that a position in or membership in the state military forces is not considered to be a civil office of emolument.

State Service Contracts by Local Governmental Entities—S.B. 899

by Senator Deuell—House Sponsor: Representative Todd Smith

Currently, the comptroller of public accounts (comptroller) is authorized to negotiate with private travel agents and transportation providers to develop reduced travel rates for certain public employees traveling on official business. This bill:

Authorizes an officer or employee of a transportation or transit authority, department, district, or system, or a hospital district, to participate in the comptroller of public accounts' contracts for travel services if the officer or employee is engaged in official business.

The bill authorizes the comptroller to charge a participating entity a fee not to exceed the costs incurred by the comptroller in providing such services.

Requires the comptroller to periodically review fees and to adjust them as needed to ensure recovery of costs incurred.

Authorizes an officer or employee of a hospital district created under general or special law who is engaged in official hospital district business to participate in the commission's contract for travel services for the purposes of obtaining reduced airline fares and reduced travel agent fees.

Authorizes the comptroller to charge a participating entity a fee not to exceed the costs incurred by the comptroller in providing such services.

Requires the comptroller to periodically review fees and to adjust them as needed to ensure recovery of costs incurred.

Requires the comptroller to deposit the fees collected from participating hospital districts to the credit of the hospital district airline fares account.

Provides that the hospital district airline fares account is an account in the general revenue fund that may be appropriated only for the purposes of travel and vehicle fleet services.

Requires the comptroller to adopt rules and to make or amend contracts as necessary to administer the hospital district provisions.

Monarch Butterfly Week—S.B. 909

by Senator Williams—House Sponsor: Representative Crownover

The Monarch Butterfly is the Texas state insect. Public interest and awareness in the Texas state insect should be promoted. This bill:

Designates the first week of October as Monarch Butterfly Week.

Authorizes Texas residents and visitors, through participation in the Texas Monarch Watch program sponsored by the Texas Parks and Wildlife Department, to help scientists answer research questions about monarch biology and migration.

Liability of Landowner for Damage Caused by Livestock in Certain Situations—S.B. 1153

by Senator Hinojosa—House Sponsor: Representative "Mando" Martinez

Recent wildfires caused fire fighters and peace officers to cut fences to get to the affected areas to put out the fires. This often caused livestock to get out and roam freely, possibly causing damage to other property. This bill:

Provides that a landowner is not liable for damages arising from an incident or accident caused by livestock of the landowner due to an act or omission of a firefighter or a peace officer who has entered the landowner's property.

Affidavits by Certain Licensed Professionals in Negligence Suits—S.B. 1201

by Senator Carona—House Sponsor: Representative Lewis

The Civil Practice and Remedies Code requires a plaintiff in a suit involving claims of professional negligence by a registered architect, registered professional land surveyor, or a licensed professional engineer to file with the plaintiff's complaint an affidavit of a third party licensed architect, land surveyor, or engineer demonstrating that the third party is competent to testify and practicing in the same area as the defendant and must identify at least one

negligent act of the defendant. There is some discrepancy relating to the meaning of "practicing in the same area as the defendant." This bill:

Requires the plaintiff, in any action or arbitration proceeding for damages arising out of the provision of professional services by a licensed or registered professional, to be required to file with the complaint an affidavit of a third-party licensed architect, licensed professional engineer, registered landscape architect, or registered professional land surveyor who is competent to testify, holds the same professional license or registration as the defendant, and is knowledgeable in the area of practice for which the person offers testimony based on the person's knowledge, skill, experience, education, training, and practice.

Liability of Speech-Language Pathologist and Audiologists—S.B. 1211

by Senator Fraser—House Sponsor: Representative Madden

Current law provides that certain volunteer health care providers serving as direct service volunteers of a charitable organization are immune from civil liability for any act or omission resulting in injury to a patient under certain circumstances. Speech-language pathologists and audiologists are not included in the definition of "volunteer health care provider." This bill:

Redefines "volunteer health care provider" to include speech-language pathologists and audiologists.

Reporting and Handling of Unclaimed Property—S.B. 1589

by Senators Ogden and Wentworth—House Sponsor: Representative Pitts

The goal of this legislation is to increase the amount of unclaimed property that ultimately finds its way back to its rightful owner. The comptroller of public accounts (comptroller) hopes to accomplish this goal by notifying owners before the property is technically unclaimed and sent to the comptroller's office, or once property is technically unclaimed and is being held by the comptroller's office, the comptroller would like to be able to access the most updated data available to be able to make contact and return the unclaimed property. This bill:

Requires that the property report include, if known by the holder, among other information the name, Social Security number, driver's license or state identification number, e-mail address, and the last known address of each person who, from the records of the holder of the property, appears to be the owner of the property, or any person who is entitled to the property.

Requires a holder who on June 30 holds property valued at more than \$250 that is presumed abandoned under Chapter 72 (Abandonment of Personal Property), 73 (Property Held by Financial Institutions), or 75 (Texas Minerals) of the Property Code or Chapter 154 (Prepaid Funeral Services), Finance Code, on or before the following August 1, except as otherwise provided, to mail to the last known address of any person who, from the records of the holder of the property, appears to be the owner of the property or a person entitled to the property, written notice stating that the holder is holding the property and that the holder may be required to deliver the property to the comptroller of public accounts (comptroller) on or before November 1 if the property is not claimed.

Authorizes the comptroller, if an owner does not assert a claim for unclaimed money and the owner is reported to be the state or a state agency, to deposit the unclaimed money to the credit of the General Revenue Fund.

Requires the Department of Public Safety of the State of Texas (DPS), not later than June 1 of each year, to provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, Social Security Number, date of birth, and driver's license or state identification number of each person about whom DPS has such information in its records.

Requires the Employees Retirement System of Texas (ERS), not later than June 1 of each year, to provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, Social Security Number, and date of birth of each member, retiree, and beneficiary from ERS's records.

Requires the Teacher Retirement System of Texas (TRS) to provide to the comptroller, not later than June 1 of each year, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, Social Security Number, and date of birth of each member, retiree, and beneficiary from TRS's records.

Requires the Texas Workforce Commission (TWC), not later than June 1 of each year, to provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, Social Security Number, and date of birth of each person about whom TWC has such information in its records.

Authorizes information provided on a driver's license application that relates to the applicant's Social Security number to be used by the Department of Public Safety of the State of Texas or be disclosed to certain entities including the unclaimed property division of the comptroller's office.

Appeals Arising Under the Federal Arbitration Act—S.B. 1650

by Senator Duncan—House Sponsor: Representative Hartnett

Generally, under current law, appeals are only authorized to be taken from final orders or judgments unless an interlocutory appeal is explicitly authorized. There is a statutory exception authorizing an interlocutory appeal of a lower court's denial of a petition to order arbitration in cases subject to the Texas General Arbitration Act. However, there is no such statutory exception in cases subject to the Federal Arbitration Act. This bill:

Authorizes a person, in a matter subject to the Federal Arbitration Act, to take an appeal or writ of error to the court of appeals from the judgment or interlocutory order of certain courts under the same circumstances that an appeal from a federal district court's order or decision would be permitted under certain federal law.

Donations of Juror Reimbursements—S.B. 1675

by Senator Hinojosa—House Sponsor: Representative Madden

Jurors currently may donate their reimbursement for jury service to their county's child welfare board. The term "welfare" does not adequately reflect the child welfare board's work with child protection. This bill:

Clarifies that jurors may donate the daily reimbursement to the county child welfare, child protective services, or child services board that serves abused and neglected children.

Requires the form letter regarding reimbursement for jury duty to contain a brief description of the programs designated for donation.

Nonsubstantive Revisions and Corrections of Certain Codes—S.B. 1969

by Senator West—House Sponsor: Representative Leibovitz

The Texas Legislative Council is required by law to carry out a complete nonsubstantive revision of the Texas statutes. This bill:

Codifies, without substantive change, various statutes omitted during prior recodifications; conforms codifications enacted by the 80th Legislature, Regular Session, 2007, to other laws enacted by that legislature that did not amend the new codes; and makes other corrections and changes, such as renumbering statutes with duplicate numbers.

Provides that the bill is a nonsubstantive revision that does not affect other Acts of the 81st Legislature.

Nonsubstantive Codifications and Revisions of Statutes—S.B. 2038 [VETOED]

by Senator Duncan—House Sponsor: Representative Hartnett

The legislature established the statutory revision program to codify statutes that individually relate to different subjects without making substantive changes. However, the Texas Supreme Court ruled that an intended nonsubstantive revision of the Tax Code had a substantive effect. This bill:

Amends the Government Code relating to the interpretation of statutes enacted with the purpose of codifying or revising without substantive change by certain courts and agencies and provides that the codification or revision of a statute does not affect the meaning or effect of the statute.

Smart Growth Policy Work Group and Smart Growth Policy—S.B. 2169 [VETOED]

by Senator Ellis—House Sponsor: Representative Alvarado

The State of Texas does very little planning to encourage smart growth, or growth that encourages wise use of land and resources. This bill:

Establishes the work group on smart growth policy (work group) and sets forth the composition of the work group.

Requires the work group to collaborate and develop a comprehensive smart growth plan (plan) for the state to prepare for the projected population growth in the state.

Requires the work group, in developing the plan, to make recommendations to the legislature for addressing the quality of community life; the design of municipalities, counties, and regions; economic, environmental, health, housing, and transportation issues; mixed land use; gentrification; predictable, fair, and cost-effective development decisions; and the encouragement of community and stakeholder collaboration in such decisions.

Requires the work group to coordinate with councils of government, regional mobility organizations, metropolitan planning associations, and smart growth experts in the public and private sectors, including the United States Environmental Protection Agency and planning departments in other states, and to solicit and obtain input from relevant stakeholders.

Requires the work group, not later than January 1 of each odd-numbered year, to submit a report to the legislature on the smart growth plan and policies developed by the work group.

Fees Paid to a Constable for Serving Civil Process—S.B. 2197

by Senator Williams—House Sponsor: Representative Harless

Some constables in Texas may avoid serving civil process while on duty, instead serving such process while off-duty for additional pay. This bill:

Provides that civil process served by a constable at any time or place is presumed to be served in the constable's official capacity.

Prohibits a constable from retaining a fee paid for serving civil process in the constable's official capacity.

Requires any fee paid to a constable for serving civil process in the constable's official capacity to be deposited with the county treasurer of the constable's county.

Compensation of State Employees—S.B. 2298

by Senator Watson—House Sponsor: Representative Farabee

In 2008, the citizens of Texas were directly affected by several disasters. After each disaster, state employees demonstrated their compassion and willingness to assist fellow Texans by offering to engage in disaster efforts throughout the state. However, most of those employees were not entitled to compensation for that additional work. State employees are also not allowed to receive compensatory time for work performed at their homes, which discourages telecommuting.

Employees subject to the Fair Labor Standards Act (FLSA) may receive monetary compensation for working extra hours in response to disaster situations if an agency authorizes payment of overtime hours worked. FLSA-exempt employees may only receive compensatory time. For teleworkers, the employee's personal residence is designated as the employee's regular place of business as permitted by state law. However, Section 659.018 (Compensatory Time: Place Where Work is Performed), Government Code, prohibits employees from accumulating compensatory time for work performed at their personal residence. This bill:

Provides that the six-month limitations relating to merit salary increases and one-time merit payments do not apply if the agency's administrative head determines that the payment is made in relation to the employee's performance during a natural disaster or other extraordinary circumstance.

Entitles a retired judge appointed to a multidistrict litigation pretrial court to receive the same compensation and benefits to which a district judge is entitled.

Removes the prohibition against a state employee's personal residence being considered the employee's regular or temporarily assigned place of employment.

Authorizes an employee, with authorization from the administrative head of the agency for which an employee works, or that person's designee, to be paid for the hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government.

Authorizes an employee who is employed by a state mental health or mental retardation facility, with such authorization, to be paid for any unused compensatory time if the employing agency determines that taking the compensatory time off would disrupt the agency's normal business function.

Authorizes an employee, with authorization from the administrative head of the agency for which a state employee works, or that person's designee, to be paid for the hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government.

Preservation and Maintenance of the Governor's Mansion—S.B. 2307

by Senator Williams—House Sponsor: Representative Geren

Under previous law, the authority for preservation and maintenance of the Governor's Mansion was given to the State Preservation Board (SPB) in one provision and to the Texas Historical Commission (THC) in another provision. This bill:

Clarifies that SPB is responsible for the management of construction projects and maintenance of the Governor's Mansion.

Assigns duties regarding the construction plans, compliance with Chapter 191 (Antiques Code), Natural Resources Code, and preservation and maintenance of the Governor's Mansion to THC and SPB.

Repeals Section 442.0071(d) (relating to activities of THC, requiring advice and approval of the governor and the governor's spouse under certain circumstances), Government Code.

Classification of Types of Marital Property Relating to Criminal Restitution—S.B. 2324

by Senator Duncan—House Sponsor: Representative Lewis

The Mandatory Victims Restitution Act, requiring a criminal defendant to make restitution to victims of the crime, and the Federal Debt Collection Procedures Act, defining a debt to include an amount owed for restitution, preempt Texas law protecting money and benefits in the various public retirement systems from garnishment, attachment, levy, and other similar processes. The United States Department of Justice has recently attempted to access the entire retirement account of the participant rather than just the nonparticipant's share of the account. This bill:

Provides that all retirement allowances, annuities, accumulated contributions, optional benefits, and money in the various public retirement system accounts of this state that are community property subject to the participating spouse's sole management, control, and disposition are not subject to any claim for payment of a criminal restitution judgment entered against the nonparticipant spouse except to the extent of the nonparticipant spouse's interest as determined in a qualified domestic relations order.

Registration Fee for Master Bidders List—S.B. 2381

by Senator West—House Sponsor: Representative Dukes

In the past, the legislature added a rider to the Appropriations Act to add \$20 to the fee to be used for the Historically Underutilized Business (HUB) program. The 80th Legislature, Regular Session, 2007, omitted the rider because the Legislative Budget Board, in consultation with the comptroller of public accounts (comptroller), thought that the fee was included in the Government Code. The Centralized Master Bidders List (CMBL) fee is in the Government Code, but the \$20 fee is not. This bill:

Authorizes the comptroller to charge a person applying for registration on the master bidders list a registration fee.

Authorizes the comptroller to charge a registrant a biennial renewal fee in an amount designed to recover the comptroller's costs.

Requires the comptroller to also collect \$20 from each registrant to be used for the purpose of enforcing compliance with requirements of state purchasing statutes and the prevention of fraud in the HUB program.

Deletes existing text requiring the Texas Facilities Commission to set the amount of the fees by rule.

Prohibiting Postemployment Activities of Local Government Officers—S.B. 2468 [VETOED]

by Senator Gallegos et al.—House Sponsor: Representative Coleman et al.

Under current state law there are no limitations on the post-employment activities of county and other local officials and employees who may exercise undue influence on their former employees and colleagues. This bill:

Prohibits former local and county officials or employees in a county with more than 3.3 million people from making any communication to or appearance before an officer or employee of the governing body under which the former officer served before the second anniversary of the date the former officer ceased to serve if the communication or appearance is made with the intent to influence and on behalf of any person in connection with any matter on which the person seeks official action.

Prohibits a former local government officer from representing any person or receiving compensation for services rendered on behalf of any person regarding a particular matter in which the former officer participated during the period of service.

Safety of Children Who Participate in Rodeos—S.B. 2505

by Senator Harris—House Sponsor: Representative Geren

Rodeos can be dangerous competition, and there is a high risk of injury for anyone participating in a rodeo event. This bill:

Requires children participating in rodeos to wear certain protective gear.

Using Social Security Numbers for Motor Vehicles Registration—H.B. 3517

by Representatives Gattis and Gutierrez—Senate Sponsor: Senator Huffman

Identity theft remains a persistent and growing problem for many Texans. While some reforms have been enacted, more needs to be done. For instance, state government can help combat identity theft by not requiring individuals to release their confidential information, such as Social Security numbers, when no vital purpose is served by the disclosure.

State law requires an applicant for a certificate of vehicle title, in a county in which the Texas Department of Transportation (TxDOT) has implemented an automated registration and title system, to provide the applicant's Social Security number to TxDOT. This provision was enacted during the 74th Legislature, Regular Session, 1995, to help the collection of child support payments. However, according to TxDOT, these Social Security numbers have not been used to aid in the collection of child support and many purchasers of new and used vehicles and other title applicants have been exposed to potential identity theft. Additionally, most other states do not require a person registering a vehicle to provide the person's Social Security number as a requirement of registration. This bill:

Repeals Section 501.0235 (Social Security Number of Title Applicant: Automated Registration and Title System), Transportation Code, relating to the Texas Department of Transportation requiring the provision of a Social Security number by an applicant for a motor vehicle certificate of title.

Confidential Investigative Files Maintained by TDI—H.B. 4461

by Representative Smithee—Senate Sponsor: Senator Carona

Current law provides that investigative files maintained by the Texas Department of Insurance's (TDI) Division of Workers' Compensation are confidential; however, there is no similar provision relating to the investigative files of TDI's Enforcement Division. This bill:

Provides that information or material acquired by TDI that is relevant to an investigation is not a public record for the period that TDI determines is relevant to further or complete the investigation.

Prohibition of Publication of Judges' Spouses' Residential Information—S.B. 281

by Senator Nelson—House Sponsor: Representative Truitt

During the 80th Legislative Session in 2007, the legislature passed legislation prohibiting the publication of federal and state judges' residential information in public records, such as voter registration applications and property appraisal records. The purpose of this legislation was to protect judges from retaliation by offenders whom they have sentenced. However, residential information of the judges' spouses was not provided the same protection. This bill:

Prohibits the residence address of the spouse of a federal or state judge from being published in certain public records.

Releasing Certain Motor Vehicle Accident Information—S.B. 375

by Senator Carona—House Sponsor: Representative Todd Smith

The Texas Department of Transportation (TxDOT) maintains information about motor vehicle accidents in a database referred to as the Crash Records Information System (CRIS). The information contained in the database is derived from accident reports generated in connection with motor vehicle accidents. Current law provides that all information related to a report of a motor vehicle accident that is maintained by TxDOT or any other governmental entity is

privileged and authorized to be used only for accident prevention purposes. That law, however, requires records related to a particular accident to be released to certain governmental entities or a nongovernmental entity that can provide certain identifying information about the accident.

The attorney general was asked to determine whether the CRIS database was privileged and confidential in the same manner that accident reports are privileged under state law. The attorney general determined that the CRIS database is not an accident report and therefore is not privileged or confidential. This bill:

Authorizes TxDOT to release motor vehicle accident information compiled under provisions passed by the 80th Texas Legislature requiring TxDOT to tabulate and analyze the vehicle accident reports it receives and to release a vehicle identification number and specific accident information relating to that vehicle.

Requires the amount that may be charged for the information to be calculated in the manner specified by the Public Information Act for public information provided by a governmental body.

Prohibits TxDOT from releasing information that is personal as defined by the Motor Vehicle Records Disclosure Act or information that would allow a person to satisfy the requirements for the release of information for a specific motor vehicle accident.

Sets forth specific items of information TxDOT is required to withhold or redact, including the name of any person listed in an accident report.

Information Relating to Certain Federal Agents or Investigators—S.B. 390

by Senator Dan Patrick—House Sponsor: Representative Harless

State law refers to the United States Immigration and Naturalization Service, which is now named the United States Citizenship and Immigration Services, and to the United States Customs Service, which is now named the United States Immigration and Customs Enforcement.

Current law provides for the confidentiality of addresses, telephone numbers, Social Security numbers, and personal family information of certain peace officers and law enforcement officials; however, the law does not include federal criminal investigators. This bill:

Updates the Code of Criminal Procedure to reflect changes made to the names of certain federal agencies.

Prohibits public disclosure of certain information of certain criminal investigators of the United States and police officers and inspectors of the United States Federal Protective Service.

Relating to Confidential Information Provided to Legislators—S.B. 671

by Senator Shapleigh—House Sponsor: Representatives Gallego and Oliveira

Section 552.008 (Information for Legislative Purposes), Government Code, requires governmental bodies to provide public information, including confidential information, to legislators upon request for legislative purposes. Governmental bodies are authorized to require the requesting legislator to sign a confidentiality agreement regarding any confidential information that is provided. The law does not provide a method by which such information is actually deemed confidential and therefore subject to a confidentiality agreement. This bill:

Authorizes a legislator to seek a decision from the attorney general about whether information covered by a confidentiality agreement is confidential under law.

Information of Governmental Bodies Not Subject to Public Information Act—S.B. 1068

by Senator Wentworth—House Sponsor: Representative Gallego

Current law provides that certain personal information of certain employees of governmental bodies and agencies is not subject to public disclosure under the Public Information Act; however, the information may only be redacted from information requested with the issuance of a decision from the attorney general allowing the information to be withheld. This bill:

Authorizes certain governmental bodies to redact information from information disclosed without the necessity of requesting a decision from the attorney general.

Provides that information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from certain requirements relating to the availability of public information if disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Disclosure of Information Relating to Employee or Trustee of Public Pension—S.B. 1071

by Senator Wentworth—House Sponsor: Representative Geren

Currently, the Government Code contains certain statutes that have been interpreted to except certain information relating to an employee or trustee of a public employee pension system, such as income, salary, benefits, and bonuses received from the pension system, from the requirements and application of the Public Information Act. This bill:

Provides that information concerning the employment of an employee of a public employee pension system and information concerning the service of a trustee of a public employee pension system is public information, including information concerning the income, salary, benefits, and bonuses received from a public employee pension system by an employee or trustee.

Clarification of Provisions in Public Information Act—S.B. 1182

by Senator Wentworth—House Sponsor: Representative Ortiz, Jr.

The Office of the Attorney General suggested changes to the Public Information Act to make it more efficient and less confusing. This bill:

Clarifies provisions of the Public Information Act relating to the Open Records Steering Committee, reports about items of community interest made by the governing body of municipalities, exemptions to the Act for certain information, payment for anticipated costs of preparation of public information, and the litigation process under the Act.

Exemptions from Payment of Costs Relating to Request for Public Information—S.B. 1629

by Senator Wentworth—House Sponsor: Representative Rose

Current law authorizes a governmental body to recover its actual costs in responding to certain requests for information under the Public Information Act and provides certain exemptions for certain persons requesting information, including members of the media. This bill:

Provides exemptions from the payment of actual costs relating to a response for requested public information for certain individuals seeking information for a radio or television broadcast station and certain newspapers and magazines published on the Internet.

Confidentiality of Information Submitted to Appraisal Districts—S.B. 1813

by Senator Duncan—House Sponsor: Representative Chisum

H.B. 2188 was passed during the 80th Legislature, Regular Session, 2007, and provided that certain information submitted to an appraisal district by a private entity is confidential. However, certain county appraisers are unable to obtain information needed to perform property appraisals. This bill:

Provides that the requirement that certain information submitted to an appraisal district is confidential applies in counties having a population of 20,000 or more.

Confidential Identity of Victims of Sexual Assault in Court Proceedings—S.B. 1930

by Senator Watson—House Sponsor: Representative Fred Brown

Victims of sexual assault are hesitant to seek redress because of the potential for exposure of the identity of the victim. This bill:

Authorizes a plaintiff in proceedings of an action relating to aggravated sexual assault to use a confidential identity in relation to the action.

Entitles certain persons to know the true identifying information about the plaintiff.

Abolition of the Board of Tax Professional Examiners—H.B. 2447

by Representative Flynn et al.—Senate Sponsor: Senator Estes

The Board of Tax Professional Examiners (TBTPE) regulates tax professionals in Texas to ensure that those who appraise real property and assess and collect property taxes are knowledgeable, competent, and ethical. TBTPE's main functions include: registering tax appraisers, assessor-collectors, and collectors; monitoring their progress toward certification; and enforcing the Property Taxation Professional Certification Act and TBTPE rules. In fiscal year 2008, TBTPE operated with a budget of about \$160,000 and employed three full-time employees and one part-time employee. In fiscal year 2008, TBTPE regulated 3,728 tax professionals and resolved 24 complaints resulting in three letters of reprimand. TBTPE is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The Sunset review found that the regulation of tax professionals continues to be needed, but TBTPE's ability to address the concerns of taxpayers is limited by the small size of the agency and its lack of clear and comprehensive regulations. These difficulties indicate the need to consolidate TBTPE's functions with a larger agency to improve regulatory effectiveness and administrative efficiency. This bill:

Abolishes TBTPE.

Transfers the functions of TBTPE to the Texas Department of Licensing and Regulation (TDLR).

Establishes the Texas Tax Professional Advisory Committee (committee) and provides that the committee consists of seven members appointed by the presiding officer of the Texas Commission of Licensing and Regulation (TCLR) with the approval of TCLR as follows:

- two members who are certified under this chapter as registered professional appraisers;
- two members who are certified under this chapter as registered Texas collectors or registered Texas assessors; and
- three members who represent the public.

Sets forth eligibility requirements, terms, and duties of the committee.

Requires the comptroller of public accounts (comptroller) to enter into a memorandum of understanding with TDLR under which the comptroller is required to provide information on the educational needs of and opportunities for tax professionals; review and approval of all required educational courses, examinations, and continuing education programs for registrants; a copy of any report issued by the comptroller and if requested by TDLR a copy of any work papers or other documents collected or created in connection with a report issued under that section; and information and assistance regarding administrative proceedings conducted under commission rules or Chapter 1151 (Property Tax Professionals), Occupations Code.

Requires that an initial application for registration be accompanied by a nonrefundable processing fee and a nonrefundable registration fee.

Provides that except as otherwise provided by the commission, a registration under Chapter 1151, Occupations Code, is valid for one year and is required to be renewed annually.

Requires a registrant to pay an annual fee.

Authorizes TCLR by rule to adopt a system under which registrations expire on various dates during the year.

Requires TDLR to notify a registrant of the impending expiration of the registrant's registration.

Authorizes TDLR to set fees for continuing education courses and providers of continuing education courses in amounts reasonable and necessary to cover TDLR's costs in administering TDLR's duties under Section 1151.1581 (Continuing Education), Occupations Code.

Authorizes the comptroller to set fees for continuing education courses and providers of continuing education courses in amounts reasonable and necessary to cover the comptroller's costs in administering the comptroller's duties under Section 1151.1581, Occupations Code.

Requires TDLR to consider evidence that the registrant attempted in good faith to implement or execute a law, policy, rule, order, budgetary restriction, or other regulation provided by the laws of this state, the comptroller, or the governing body or the chief administrator of the appraisal district or taxing jurisdiction that employs the registrant; acted on the advice of counsel or the comptroller; or had discretion over the matter on which the complaint is based, if the complaint is based solely on grounds that the registrant decided incorrectly or failed to exercise discretion in favor of the complainant.

Authorizes TDLR to notify the local governmental entity that employs a registrant of a complaint against the registrant by sending a copy of the complaint letter to the local governmental entity.

Repeals:

- Section 1151.002(4) (relating to the definition of "board"), Occupations Code;
- Section 1151.003 (Application of Sunset Act), Occupations Code;
- Section 1151.053 (Meetings), Occupations Code;
- Section 1151.054 (Officers), Occupations Code;
- Section 1151.055(b) (relating to a board member's entitlement to reimbursement for necessary expenses incurred in performing the member's duties), Occupations Code;
- Section 1151.056 (Training), Occupations Code;
- Section 1151.057 (Grounds for Removal), Occupations Code;
- Subchapter B-1 (Executive Director and Personnel), Chapter 1151 (Property Tax Professionals), Occupations Code;
- Section 1151.1021 (Negotiated Rulemaking and Alternative Dispute Resolution Policy), Occupations Code;
- Section 1151.105 (Record of Board), Occupations Code;
- Section 1151.109 (Waiver of Fee or Penalty Prohibited), Occupations Code;
- Section 1151.110 (Use of Technology), Occupations Code;
- Subchapter C-1 (Public Interest Information and Complaint Procedures), Chapter 1151, Occupations Code;
- Section 1151.155(c) (relating to refund of a registration fee if TBTPE disapproves an application for registration), Occupations Code;

- Section 1151.159 (Removal from Roster of Registrants; Reinstatement), Occupations Code;
- Section 1151.1611 (Examination Results), Occupations Code;
- Section 1151.164(c) (relating to requiring TBTPE to provide the chief appraiser training program), Occupations Code;
- Section 1151.201 (Initiation of Proceedings), Occupations Code;
- Section 1151.2025 (Probation), Occupations Code; and
- Section 1151.203 (Rules for Proceedings; Notice), Occupations Code.

Continuation and Functions of the Texas Military Preparedness Commission—H.B. 2546

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

The 78th Legislature, Regular Session, 2003, created the Texas Military Preparedness Commission (TMPC) as a trustee program within the office of the governor to preserve and expand Texas' 18 major military installations and their missions, and assist communities that have been impacted by a United States Department of Defense Base Realignment and Closure (BRAC) action. TMPC assists defense communities through two programs: the Defense Economic Adjustment Assistance Grant (DEAAG) and the Texas Military Value Revolving Loan Fund (fund). TMPC also advises the governor and legislature on defense-related issues affecting Texas military installations to support the long-term viability of the military in the state. The agency operated on a budget of about \$250,000, composed entirely of general revenue funds, in fiscal year 2008, and has two full-time equivalent positions responsible for planning and agency operations. The Sunset Advisory Commission found that TMPC has value in its work; however, TMPC lacks the financial expertise to assess the credit-worthiness of loan applications for the Texas Military Value Revolving Loan Fund. Also, the decision-making process for the grant program needs improvement and an expanded program focus. This bill:

Administratively ties TMPC to the Texas Economic Development and Tourism Office in the office of the governor (office).

Expands the purposes of DEAAG to include job creation.

Clarifies the role of TMPC and the office with regard to administration of the fund.

Repeals:

- Section 436.003 (Sunset Provision), Government Code;
- Section 436.057(b) (relating to the director serving at the will of TMPC), Government Code;
- Section 436.1531 (Loans for Communities Adversely Affected by Defense Base Reduction), Government Code, as added by Chapter 1160 (H.B. 3302), Acts of the 79th Legislature, Regular Session, 2005;
- Section 436.1531 (Loans for Communities Adversely Affected by Defense Base Reduction), Government Code, as added by Chapter 1280 (H.B. 2340), Acts of the 79th Legislature, Regular Session, 2005;

- Section 436.1532 (Loans for Communities Positively Affected by Defense Base Restructuring), Government Code, as added by Chapter 1280 (H.B. 2340), Acts of the 79th Legislature, Regular Session, 2005; and
- Section 481.501(3) (relating to the definition of "office"), Government Code.

Department of Public Safety and the Texas Private Security Board—H.B. 2730

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

The Department of Public Safety of the State of Texas (DPS) and the Private Security Board (board) are subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The Sunset Advisory Commission review found that Texas continues to need DPS and the board. This bill:

Continues DPS and the board until September 1, 2015.

Sets forth provisions relating to the duties and operation of DPS and the board.

Provides that the vehicle inspection program (program) is managed by a program director.

Sets forth the program director's duties and requires the advisory committee for the program to hold a meeting at least once each quarter.

Replaces the division of emergency management in the office of the governor with the Texas Division of Emergency Management.

Provides that the Texas Division of Emergency Management (TDEM) is a division of DPS, and establishes additional responsibilities for TDEM.

Provides that TDEM is managed by a chief appointed by the public safety director of DPS.

Includes the speaker of the house of representatives or the speaker's designee and the lieutenant governor or the lieutenant governor's designee in the membership of the Homeland Security Council.

Updates the procedure for compelling the attendance of a breath test technician at a hearing relating to the administrative suspension of a driver's license for failure to pass a test for intoxication.

Provides that the board issues endorsements to certain security officers engaged in the personal protection of individuals.

Requires the board to adopt rules necessary to comply with licensing provisions relating to the consequences of a criminal conviction.

Amends provisions regarding the following activities regulated by the Private Security Act (Act):

- licensing, registration, and other fees;
- license classifications;
- application restrictions for a license, certificate of registration, endorsement, or security officer commission; and
- registration and endorsement requirements.

Authorizes the board to develop and administer a jurisprudence examination to determine the knowledge of an endorsement applicant regarding the act, board rules, and other applicable state laws.

Sets forth provisions relating to an applicant for a security services contractor license, the form of a license issued under the act, the termination of a manager of a license holder's business, the recordkeeping of a license holder, the concealment of a firearm applicable to a personal protection officer, requirements for applications regulated by the Act, subpoena authority of DPS in a complaint investigation, and deceptive trade practices under the Act.

Prohibits a personal protection officer from concealing any firearm and requires the individual to carry a firearm in plain view.

Requires the Public Safety Commission to establish the office of inspector general, in place of the office of internal affairs, to prevent, detect, and investigate serious breaches of departmental policy, fraud, and abuse of office.

Amends provisions relating to the voluntary donation of a DPS employee's accrued compensatory time or annual leave to a legislative leave pool, the disclosure by DPS of information regarding individuals licensed to carry concealed handguns and individuals certified as qualified handgun instructors, and the mandatory physical fitness programs for law enforcement officers that each law enforcement agency is required to adopt.

Authorizes DPS to establish a driver record monitoring pilot program and to enter into a contract with an eligible person to provide driver record monitoring services and certain information from DPS's driver's license records to the person, and makes it a Class B misdemeanor for a contracted person to violate the terms of the contract.

Creates a state jail felony offense of conspiring to manufacture a counterfeit driver's license or personal identification certificate, enhanced to a felony of the third degree if the actor is a public servant.

Changes the name of the unsolved crimes investigation team to the unsolved crimes investigation program.

Requires a peace officer to be a sergeant or higher-ranked officer of the Texas Rangers to be eligible for employment with the Unsolved Crimes Investigation Program.

Requires TDEM to coordinate with the Texas Department of Transportation to establish additional methods for disseminating emergency public service messages to motorists.

Authorizes DPS to obtain and use criminal history record information maintained by the Federal Bureau of Investigation or DPS that relates to applicants for certain permits, certifications, or registrations issued under the Health and Safety Code or Transportation Code.

Provides restrictions on the release or disclosure of the criminal history record information.

Amends provisions relating to the disclosure of criminal history record information regarding public school employees obtained by the State Board for Educator Certification, Texas Education Agency (TEA), and local and regional educational entities.

Requires the bureau of identification and records to record data and maintain a state database for a computerized criminal history record system and computerized juvenile justice information system.

Authorizes DPS to release or disclose criminal history record information obtained or used by DPS to another person or agency only in a criminal proceeding, in a hearing conducted by the department, under an order from a court, or with the consent of the person who is the subject of the criminal history record information.

Authorizes criminal history record information obtained by certain state entities to be released or disclosed with the consent of the person who is the subject of the information.

Requires DPS to suspend a license under this section if the license holder is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01 (Disorderly Conduct), Penal Code, or equivalent offense, or of a felony under an information or indictment.

Modifies the documents required to be submitted to obtain a new, modified, or renewal license.

Requires DPS to establish a procedure to indicate on a license a person's status as a qualified handgun instructor.

Creates an exemption to the requirement that DPS revoke a concealed handgun license in regard to a dishonored or reversed application fee.

Requires DPS and other judicial entities to suspend a concealed handgun license under certain circumstances.

Authorizes a qualified handgun instructor to submit to DPS a written recommendation for disapproval of the application for a concealed handgun license, or renewal or modification of such a license, accompanied by an affidavit.

Requires DPS to ensure that certain applicants may renew a qualified handgun certification online.

Repeals Sections 411.175 (Request for Application Materials) and 411.189 (Handgun Proficiency Certificate), Government Code.

Requires that Article 12 (Driver Education and Driver's Licensing Requirements for Minors), Education Code, be known as the Less Tears More Years Act.

Requires a school district to consider offering a driver education and traffic safety course each school year.

Authorizes the district to conduct and charge a fee for the course or to contract with a licensed driver education school to conduct the course.

Sets forth driver education course requirements regarding specified hours of behind-the-wheel instruction and observation instruction for students.

Requires DPS to collect and publish data regarding collisions of students taught by certain entities that offer driver education courses.

Requires DPS and TEA to enter into a memorandum of understanding under which DPS may access TEA's electronic enrollment records to verify a student's enrollment in a public school for license renewal purposes.

Removes the failure to display a concealed handgun license as grounds for suspension of the license and the Class B misdemeanor offense for a person who fails to display a license after such a suspension.

Authorizes applicable persons who enter Texas as new residents to operate a motor vehicle in Texas for no more than 90 days, rather than 30 days, after the date on which they enter Texas.

Requires DPS by rule to establish a system for identifying unique addresses that are submitted in driver's license or personal identification certificate applications in a frequency or number that casts doubt on whether the addresses are the actual addresses where the applicant resides and prohibits DPS from issuing a license or certificate to a person who has not established a domicile in Texas.

Requires DPS to establish a procedure for a federal judge, a state judge, or the spouse of a federal or state judge who holds a driver's license to omit the license holder's residence address on the license and to include, in lieu of that address, the street address of the courthouse in which the license holder or spouse serves.

Requires DPS to participate in an inmate identification verification pilot program for the purpose of issuing driver's licenses and personal identification certificates to inmates of the Texas Department of Criminal Justice.

Requires an inmate to provide supplemental verified documents with an offender identification card or similar form of identification as satisfactory proof of identity in regard to an application for an original or commercial driver's license.

Requires DPS to waive all applicable surcharges for a person who is indigent.

Requires DPS to establish a procedure to provide for the deduction of driver's license surcharge points for each year that a person has not accumulated such points.

Creates an exception to the presumption that a motor vehicle operator who does not exhibit evidence of financial responsibility is in violation of the financial responsibility requirement.

Includes the offense of driving while intoxicated with a child passenger among the offenses a conviction of which results in an automatic driver's license suspension.

Increases, from \$50 to \$100, the reinstatement fee for a license suspended in relation to certain intoxication offenses.

Requires earlier notification to DPS and other applicable persons of certain convictions, forfeitures of bail, or adjudications in regard to certain motor vehicle offenses or violations.

Provides that a person is disqualified from driving a commercial motor vehicle for life if the person uses a motor vehicle in the commission of an offense under 8 U.S.C. Section 1324 that involve the transportation, concealment, or harboring of an alien.

Requires a juvenile court to order DPS to suspend or deny issuance of a child's driver's license or permit if the court finds that the child has engaged in conduct that violates a penal law of Texas or the United States involving a severe form of trafficking in persons.

Amends provisions relating to administrative fines and fees for parking violations in the Capitol Complex.

Requires the commissioners court of a county that has an average disposition completeness percentage, including both juvenile and adult dispositions, of less than 90 percent to establish a local data advisory board.

Requires the director of DPS, the executive director of the Texas State Board of Pharmacy, and the executive director of the Texas Medical Board or those directors' designees, not later than September 1, 2011, to meet as an interagency council to develop a transition plan for the orderly transfer from DPS to the Texas State Board of Pharmacy of certain records and regulatory functions relating to dispensing controlled substances by prescription under the Texas Controlled Substances Act.

Credit Union Department and the Credit Union Commission—H.B. 2735

by Representative Flynn—Senate Sponsor: Senator Estes

The Texas Credit Union Department (TCUD) oversees the safety and soundness of state-chartered credit unions in Texas. TCUD's mission is to safeguard the public interest, protect the interests of credit union members, and

promote confidence in credit unions. To achieve its mission, TCUD examines state-chartered credit unions on a regular basis and assists the public by helping to resolve complaints against credit unions. In fiscal year 2008, TCUD spent about \$1.79 million and employed 23 staff. TCUD relies on fees collected from credit unions to support its operations. TCUD supervised 213 state-chartered credit unions, with assets totaling \$20.35 billion, in fiscal year 2008. TCUD is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The Sunset review found that Texas has a continuing need to regulate credit unions and that TCUD effectively carries out this regulation as a stand-alone agency. The Sunset review also found opportunities to improve TCUD's operations and regulations through greater transparency, expanded enforcement authority, and increased stakeholder input. This bill:

Continues TCUD and the Credit Union Commission (CUC) until September 1, 2021.

Requires CUC to adopt, and the Consumer Credit Commissioner (commissioner) to enforce, reasonable rules requiring a regulated credit union to provide an annual report to the credit union's members regarding the credit union's financial condition and management and specifies the information to be included in the report.

Requires CUC, in adopting rules, to ensure that a credit union updates the report before the credit union's annual organizational meeting, makes the report available to members throughout the year on the credit union's website if the credit union maintains a website, and provides the report to credit union members by an alternative method if the credit union does not have a website.

Requires CUC to adopt rules regarding the purpose, structure, and use of advisory committees by CUC and requires an advisory committee to be structured and used in an advisory capacity with no rulemaking or policymaking responsibilities.

Requires CUC by rule to establish a process by which CUC periodically evaluates an advisory committee to ensure its continued necessity and authorizes CUC to retain or develop committees as appropriate to meet changing needs.

Requires an advisory committee to comply with the open meetings law.

Requires a regulated credit union to give notice to the credit union's members of the availability on a member's request of documents related to the credit union's finances and management.

Requires that the notice be given via the credit union's website if the credit union maintains a website and in a newsletter twice a year if the credit union distributes a newsletter.

Requires CUC to adopt reasonable rules to implement these provisions, including rules prescribing an alternative method for credit unions that do not maintain an Internet website or distribute a newsletter to provide their members with the required notice of the documents' availability.

Authorizes the commissioner, if it appears to the commissioner that a person who is not authorized to engage in the credit union business is violating a rule or statute relating to the regulation of credit unions, to issue without notice and hearing an order to cease and desist from continuing a particular action to enforce compliance with the applicable state statute or rule.

Requires the commissioner, if a person against whom an order is made requests a hearing, to set and give notice of a hearing before the commissioner or a hearings officer and establishes that an order becomes final unless the person to whom the order is issued requests a hearing not later than the 30th day after the date the order is issued.

Texas Commission on Law Enforcement Officer Standards and Education—H.B. 3389

by Representatives Harper-Brown and Merritt—Senate Sponsor: Senator Deuell

The Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. TCLEOSE's goal is to have highly trained and ethical law enforcement and county corrections personnel in Texas by ensuring that licensees are qualified, competent, and meet minimum licensure standards. To accomplish its mission, TCLEOSE licenses and certifies qualified individuals as peace officers, county jailers, and telecommunicators; approves and evaluates training providers; develops and maintains basic training and continuing education courses; and takes disciplinary action against licensees to enforce statute and rules. The Sunset Advisory Commission found that Texas has a clear and ongoing need to train and regulate law enforcement and county corrections personnel, but that changes are needed to improve TCLEOSE's operations and the accountability of TCLEOSE's current responsibilities. This bill:

Continues TCLEOSE until September 1, 2021.

Prohibits a person from being a TCLEOSE member or employee if the person is an officer, employee, or paid consultant of a Texas trade association in the field of law enforcement or county corrections or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of law enforcement or county corrections; modifies training requirements for members; and adds to the reporting requirements for local law enforcement agencies for purposes of receiving an annual allocation of money from the comptroller of public accounts.

Requires TCLEOSE to implement policies relating to the use of appropriate technological solutions to improve TCLEOSE's ability to perform its functions and to alternative dispute resolution procedures, to develop and establish a system for the electronic submission of required forms, data, and documents to TCLEOSE, and to establish guidelines relating to consequences of criminal convictions or deferred adjudications.

Entitles TCLEOSE to access certain records of an agency regarding law enforcement officers, requires TCLEOSE to audit the records, and sets forth auditing procedures.

Sets forth provisions relating to the submission of certain information by an entity that begins to commission, appoint, or employ law enforcement officers on or after September 1, 2009.

Amends provisions relating to TCLEOSE complaint procedures, recording, and analysis.

Amends provisions relating to the required components of law enforcement officer training programs (program) and qualifications for enrollment in programs.

Requires an officer to complete a program on investigative topics, civil rights, racial sensitivity, and cultural diversity to obtain an intermediate proficiency certificate.

Establishes administrative penalties to be assessed against a law enforcement agency or governmental entity that violates provisions relating to law enforcement officers or a rule adopted under those provisions and establishes venue for the prosecution of an offense that arises from such a violation.

Updates law enforcement agency policy and reporting requirements regarding racial profiling and motor vehicle stops and provides for related disciplinary procedures and to establish a civil penalty for a law enforcement agency that fails to submit certain incident-based data to TCLEOSE.

Establishes a 10-cent court cost to be paid by a defendant on conviction in a justice court, county court, county court at law, or municipal court of a motor vehicle moving violation and deposited to the credit of the Civil Justice Data Repository fund for use by TCLEOSE to implement its auditing duties.

Parks and Wildlife Department—H.B. 3391

by Representative Harper-Brown et al.—Senate Sponsor: Senator Hegar

The Texas Legislature created the Texas Parks and Wildlife Department (TPWD) in 1963 to operate state parks and enforce fish and wildlife laws. TPWD's goals include: improving access to the outdoors; helping landowners improve wildlife habitat; increasing participation and enhancing the quality of hunting, fishing, boating, and outdoor recreation; and maintaining or improving water quantity and quality for fish and wildlife. TPWD is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. As a result of its review of TPWD, the Sunset Advisory Commission recommended continuation of the agency and several statutory modifications that are contained in this legislation. This bill:

Continues TPWD until September 1, 2021.

Requires the executive director of TPWD (executive director) to establish an internal affairs office with original departmental jurisdiction over all investigations of alleged criminal conduct committed by TPWD employees or on TPWD property and specifies the duties of the office.

Includes private contributions, grants, donations, and federal funds in the funds authorized to be deposited into the state parks account, Texas recreation and parks account, and large county and municipality recreation and parks account.

Sets forth the requirements for state agencies to follow in responding to TPWD recommendations or informational comment regarding fish and wildlife resource protection, expands the situations under which the Parks and Wildlife Commission (commission) is authorized to adopt emergency rules, and extends this authority to the executive director.

Expands the list of inedible parts of certain game animals that are exempt from the prohibition against the sale of certain protected game.

Includes pigeons in the definition of "pen-reared birds" for purposes of private bird hunting areas.

Authorizes European starlings, English sparrows, and feral rock doves to be killed any time in any manner and authorizes their nests or eggs to be destroyed, and provides that such conduct does not constitute an offense under Chapter 42 (Disorderly Conduct and Related Offenses), Penal Code.

Requires TPWD to publish a list of exotic aquatic plants approved for importation or possession without a permit, rather than a list of aquatic plants that require a permit, provides guidelines for adopting rules that relate to exotic aquatic plants.

Sets forth the requirements and procedures for compiling and administering the approved list of exotic aquatic plants and issuing exotic species permits.

Authorizes TPWD to enter into the Interstate Wildlife Violator Compact on behalf of Texas.

Requires TPWD and the Texas Youth Commission to jointly seek representation by the attorney general to pursue modification of the Parrie Haynes Trust thereby transferring control of the Parrie Haynes Ranch to TPWD,

designating TPWD as the responsible agent for the trust, and expanding the purpose of the trust to benefit disadvantaged and other Texas youths.

Texas Youth Commission and the Texas Juvenile Probation Commission—H.B. 3689

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

Originally established in 1949 as the Texas Youth Development Council, the Texas Youth Commission (TYC) is the state's juvenile corrections agency, supervising youth committed to state confinement by county courts. The Texas Juvenile Probation Commission (TJPC), established in 1981, ensures access to juvenile probation services statewide by supporting and overseeing the 166 juvenile probation departments that serve all 254 counties in Texas. The Office of Independent Ombudsman (OIO), created as part of juvenile justice reforms in 2007, is responsible for investigating, evaluating, and securing the rights of children committed to TYC. Both TYC and TJPC are subject to the Texas Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The Office of Independent Ombudsman is subject to Sunset review this biennium but is not subject to abolishment. The Sunset Advisory Commission found an ongoing need for the functions of these three agencies, but identified improvements needed to address the persistent lack of coordination between TYC and TJPC, ongoing problems within TYC, and other issues of state-level communication and oversight in the juvenile justice system. This bill:

Amends provisions of the Human Resources Code, Code of Criminal Procedure, Education Code, Family Code, and Health and Safety Code relating to the functions and continuation of TYC and TJPC and to the functions of the OIO for TYC.

Continues TYC and TJPC until September 1, 2011.

Applies across-the-board sunset provisions to both entities.

Prescribes the criteria on which the Sunset Advisory Commission is required to focus in reviewing those entities.

Requires the OIO to be reviewed during the periods in which TYC is reviewed.

Requires TYC to develop a comprehensive reentry and reintegration plan to reduce recidivism and ensure the successful reentry and reintegration of children into the community following a child's release from TYC, and requires that the plan provide for child assessments, programs and services that address the needs of committed and released children, and information sharing.

Sets forth program requirements and authorizes TYC to contract and coordinate with private vendors, units of local governments, or other entities to implement the reentry and reintegration plan.

Requires TYC to conduct research to determine whether the plan reduces recidivism rates and requires TYC to deliver, at specified intervals, a report of the results to the lieutenant governor, the speaker of the house of representatives, and appropriate legislative committees.

Requires TYC to provide certain courts with information on a child's progress during TYC commitment.

Requires TYC and OIO to enter into a memorandum of understanding concerning sharing information and the procedures for handling overlapping monitoring duties and activities performed by each entity.

Adds facilities to the investigative scope of the TYC office of inspector general and authorizes the special prosecution unit, on request of a district or county attorney, to assist in certain prosecutions concerning TYC, in addition to conducting such prosecutions as authorized under current law.

Requires TYC to implement a comprehensive reading and behavior plan for students in TYC educational programs that are required to be incorporated in a reading plan that includes a battery of reading assessments that meet certain requirements and a positive social behavior plan that involves the adoption and evaluation of positive behavior supports.

Sets forth provisions relating to the adoption, administration, and assessment of the comprehensive plan and requires TYC to report to the legislature by specified dates concerning the effectiveness and implementation of the separate plans.

Provides that TJPC consists of two district court judges who sit as juvenile court judges, two county judges or commissioners, one chief juvenile probation officer, one mental health treatment professional, one educator, one member who represents an organization that advocates on behalf of juvenile offenders or victims of delinquent or criminal conduct and one member of the public who is not an employee in the criminal or juvenile justice system and is recognized in the community for the person's interest in youth.

Adds secure and nonsecure juvenile correctional facilities operated by or under contract with a governmental unit to the juvenile facilities for which TJPC is required to provide minimum standards, and requires TJPC, juvenile court judges, and juvenile boards to annually inspect each nonsecure juvenile correctional facility to determine whether the facility is suitable for the confinement of children.

Requires a juvenile probation department to complete a risk and needs assessment for each child under its jurisdiction and to report data from the assessment to TJPC.

Requires TJPC to collect comprehensive data concerning the outcomes of local probation programs throughout Texas and to deliver a quarterly report beginning on January 1, 2010, on the final outcome of any complaint received concerning the abuse, neglect, or exploitation of a juvenile in any juvenile justice program or facility.

Authorizes TJPC to contract with a local mental health and mental retardation authority possessing an unutilized or underutilized residential treatment facility to establish a residential treatment facility for juveniles with mental illness or emotional injury who are ordered to reside and receive education services at the facility as a condition of juvenile probation, prescribes requirements for such a facility in the provision of educational services, and requires the State Board of Education to grant a school charter to such a facility that provides adequate and sufficient educational opportunities and services to juveniles.

Authorizes TJPC to revoke or suspend a juvenile probation officer's certification or reprimand a certified officer if a panel determines that the certification threatens juveniles in the juvenile justice system, and to place on probation a person whose certification is suspended.

Requires TJPC, not later than September 1, 2010, to establish one or more basic probation services funding formulas and one or more community corrections funding formulas that are required to include each grant for which TJPC, on or before September 1, 2009, established an allocation formula.

Requires the executive directors of TJPC and TYC to jointly appoint a strategic planning committee (committee) to develop the biennial coordinated strategic plan for the juvenile justice system provided by state law.

Sets forth the committee's membership.

Requires TJPC, TYC, the Department of Public Safety, the Department of State Health Services, the Department of Aging and Disability Services, the Department of Family and Protective Services, the Texas Education Agency, and local juvenile probation departments to adopt a memorandum of understanding to institute a continuity of care and

service program for juveniles with mental impairments in the juvenile justice system to be coordinated and monitored by the Texas Correctional Office on Offenders with Medical or Mental Impairments.

Continuation of Certain State Agencies and Entities—S.B. 2 (1st Called Session)

by Senator Hegar et al.—House Sponsor: Representative Isett

State agencies undergo periodic review by the Sunset Advisory Commission (sunset commission). The sunset commission is guided by the Texas Sunset Act, which has certain provisions that need updating to reflect the current practices of the sunset commission, and to reflect the way the sunset process has evolved. The legislature frequently changes the review schedule for certain agencies to balance the workload of the sunset commission; to better align the reviews of agencies by grouping them based on subject matter; and in some cases a bill may be passed, to serve as a safety net in the event an agency sunset bill is in danger of not passing. This bill:

Changes the sunset date of the following entities to 2011: Equine Research Account Advisory Committee, Office of Public Insurance Counsel, Texas Department of Insurance, Texas Department of Transportation, Texas Racing Commission, Texas State Affordable Housing Corporation, Coastal Coordination Council, On-site Wastewater Treatment Research Council, Railroad Commission of Texas, State Board of Examiners for Speech-Language Pathology and Audiology, State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, State Soil and Water Conservation Board, and Texas Commission on Environmental Quality.

Changes the sunset date of the following entities to 2013: Department of Aging and Disability Services, Department of Assistive and Rehabilitative Services, Department of Family and Protective Services, Department of State Health Services, Governor's Committee on People with Disabilities, Health and Human Services Commission, Office of Fire Fighters' Pension Commissioner, Texas Board of Criminal Justice, Texas Department of Criminal Justice, Texas Council for Developmental Disabilities, Texas Council on Purchasing from People with Disabilities, Texas Education Agency, Texas Emancipation Juneteenth Cultural and Historical Commission, Texas Health Services Authority, and Texas Lottery Commission.

Subjects the Texas Forest Service to the Texas Sunset Act and continues the service until September 1, 2011.

Requires the Texas Water Development Board to be reviewed during the period in which state agencies that are abolished in 2011, rather than 2013, are reviewed, as well as every 12th year after that.

Requires the Sunset Advisory Commission to present to the 83rd Legislature, rather than the 82nd Legislature, the commission's report on its evaluation of the tax division of the State Office of Administrative Hearings, as well as the commission's report on its evaluation of and recommendations in relation to the transfer of certain powers and duties from the Texas Facilities Commission to the comptroller of public accounts.

Requires the Sunset Advisory Commission, as part of its review of the Public Utility Commission of Texas for the 82nd Legislature, to conduct a special-purpose review of the Electric Reliability Council of Texas (ERCOT), the cost of which is to be paid by ERCOT and makes this provision expire September 1, 2011.

Office of State-Federal Relations—S.B. 1003

by Senator Deuell—House Sponsor: Representative Flynn

The Office of State-Federal Relations (OSFR) acts as the state's advocate in Washington, D.C., to help promote and protect the interests of Texas at the federal level. OSFR's main functions include prioritizing a federal agenda for Texas, advocating for federal funding and policy decisions favorable to Texas, and promoting communication and building relationships between the state and federal governments. OSFR operated with a budget of about \$750,000

in 2008, with six employees in Washington, D.C., and one in Austin. OSFR is subject to the Texas Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The sunset review has found that Texas needs a presence in Washington, D.C., to promote and protect the state's interests, but would be better served by advocating its position on federal issues from the governor's office. This bill:

Continues OSFR until September 1, 2015.

Provides that OSFR is administratively incorporated in the office of the governor.

Provides that OSFR is funded by appropriations made to the office of the governor.

Transfers the powers and duties of the director of the OSFR to the office of the governor.

Sets forth additional powers and duties, including the duty to coordinate with the Legislative Budget Board regarding the effects of federal funding on the state budget.

Requires the annual report to the governor and legislature to include an evaluation of the OSFR based on performance measures developed by the OSFR policy board.

Requires that written procedures be adopted if the OSFR elects to contract with a federal-level government relations consultant.

Requires that the procedures include:

- guidelines regarding contract management;
- a competitive procurement process and method to assess the effectiveness of a prospective consultant;
- a technique for assigning a value to a prospective consultant's ability to provide services at a reasonable price and level of experience;
- a process for determining a prospective consultant's ability to work with influential members of the United States Congress and serve as an effective advocate on behalf of the state; and
- a method to verify that the interests of a prospective consultant or the consultant's other clients do not create a conflict of interest that may jeopardize the state's interest.

Requires that a contract between OSFR and a federal-level government relations consultant include:

- an agreement regarding the goals of the service to be provided by the consultant and targeted performance measures;
- a provision governing the manner in which the contract may be terminated by the parties to the contract; and
- a provision allowing OSFR, the state auditor's office, and other specified oversight entities to audit the contractor's performance under the contract.

Requires any agency or political subdivision of the state that contracts with a federal-level government relations consultant to, with certain exceptions, submit to the OSFR two reports detailing elements of the contract.

Polygraph Examiners Board—S.B. 1005

by Senator Hinojosa—House Sponsor: Representative Kolkhorst

In 1965, the 59th Legislature enacted the Polygraph Examiners Act to regulate polygraph examiners in the state. The Polygraph Examiners Board (PEB) was created as distinct agency in 1981. In 2001, the 77th Legislature

incorporated PEB appropriations into the Department of Public Safety (DPS) budget structure and directed DPS to provide administrative support for the agency. PEB consists of seven members, appointed by the governor with the advice and consent of the Senate. The board must include two law enforcement polygraph examiners, two commercial examiners, and three public representatives. PEB employs an executive director and an administrative assistant. PEB recognizes 13 polygraph schools in the United States whose curriculum meets its standards. Two are located in Texas—DPS Law Enforcement Polygraph School in Austin and a privately owned school in Corpus Christi. In 2007, the board issued 16 new licenses and renewed 227 licenses for polygraph examiners. PEB administers four polygraph licensing examinations per year in conjunction with its board meetings. This bill:

Abolishes PEB.

Transfers obligations, property, full-time equivalent positions, rights, powers, duties, and unexpended funds relating to the regulation of polygraph examiners to the Texas Department of Licensing and Regulation (TDLR).

Provides that all rules of PEB are continued as rules of the Texas Commission of Licensing and Regulation (commission) until superseded by a rule of the commission.

Provides that a reference in another law or administrative rule to PEB means TDLR.

Establishes the polygraph advisory committee (committee) to advise the commission on issues relating to a polygraph examiner license.

Sets forth the composition of the committee, the terms of its members, and the committee's duties.

Provides that a person is qualified for a polygraph examiner license if the person has not been convicted of an offense that directly relates to the duties and responsibilities of a polygraph examiner.

Requires a written contract for a polygraph examiner's services and a waiver of liability signed by the subject of a polygraph examination to inform the subject of the procedures to file a complaint against the examiner with TDLR; and contain the name, mailing address, and telephone number of TDLR.

Requires DPS and TDLR, before July 15, 2009, to develop and enter into a memorandum of understanding relating to the transfer of functions relating to polygraph examiners from DPS to TDLR.

Texas Commission on Jail Standards—S.B. 1009

by Senator Deuell—House Sponsor: Representative Harper-Brown

The legislature created the Texas Commission on Jail Standards (TCJS) in 1975 to develop and enforce minimum standards for county jails and other facilities housing county or out-of-state inmates. Today, TCJS's core mission includes regulating and supporting the management of county jails by developing jail standards, inspecting jails, investigating complaints, and reviewing and approving jail construction and operational plans. TCJS is subject to the Sunset Act and will be abolished September 1, 2009, unless continued by the legislature. The sunset review found that the state does have an interest in working collaboratively with counties to ensure proper construction and safe operation of jails, but also found opportunities to improve the agency's operations and better meet the needs of counties and the public. This bill:

Continues TCJS until September 1, 2021.

Prohibits a person who is appointed to and qualifies for office as a member of TCJS from voting, deliberating, or being counted as a member in attendance at a meeting of TCJS until the person completes a training program.

Requires that the training program provide information to the person regarding this chapter; the programs, functions, rules, and budget of TCJS; the results of the most recent formal audit of TCJS; the requirements of law relating to open meetings, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies adopted by TCJS or the Texas Ethics Commission.

Entitles a person appointed to TCJS to reimbursement as provided by the General Appropriations Act, for the travel expenses incurred in attending the training regardless of whether attendance at the program occurs before or after the person qualifies for office.

Provides that it is a ground for removal from TCJS if a member does not have at the time of taking office the qualifications required by Section 511.004 (Membership; Terms; Vacancies); is ineligible for membership under Section 511.004(g) (relating to eligibility as a public member of TCJS) or 511.0042 (Conflict of Interest); or is absent from more than half of the regularly scheduled TCJS meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of TCJS.

Prohibits certain persons from being a member of TCJS or a TCJS employee employed in a "bona fide executive, administrative, or professional capacity."

Prohibits a person from being a member of TCJS or acting as the general counsel to TCJS if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists) because of the person's activities for compensation on behalf of a profession related to the operation of TCJS.

Requires TCJS to implement a policy requiring TCJS to use appropriate technological solutions to improve TCJS's ability to perform its functions.

Authorizes TCJS to prepare information of public interest describing the functions of TCJS and TCJS's procedures by which complaints regarding TCJS and complaints regarding jails under TCJS's jurisdiction are filed with and resolved by TCJS.

Requires TCJS to make the information available to the public, inmates, county officials, and appropriate state agencies, and on any publicly accessible Internet website maintained by TCJS.

Requires TCJS to adopt rules and procedures regarding the receipt, investigation, resolution, and disclosure to the public of complaints regarding TCJS and complaints regarding jails under TCJS jurisdiction that are filed with TCJS.

Requires TCJS to develop and implement policies that clearly separate the policymaking responsibilities of TCJS and the management responsibilities of the executive director and the staff of TCJS, rather than that clearly define the respective responsibilities of TCJS and the staff of TCJS.

Requires TCJS to develop a comprehensive set of risk factors to use in assessing the overall risk level of each jail under TCJS jurisdiction.

Requires the monthly jail population report submitted by each county to TCJS to include the total of prisoners confined in the county jail who were known or determined to be pregnant.

Requires TCJS to provide information to the public about whether jails are in compliance with state law and the rules, standards, and procedures of TCJS.

Texas Commission on Fire Protection—S.B. 1011

by Senator Estes—House Sponsor: Representative Harper-Brown

The Texas Commission on Fire Protection (TCFP) is governed by Chapter 419 (Texas Commission on Fire Protection), Government Code. Currently, the law establishes TCFP as an independent agency responsible for certifying and regulating the paid fire protection service. Current law sets out the duties of the agency and its 13-member commission. TCFP ensures the protection of the public and fire fighters from the hazards of fire by establishing standards for certifying and equipping the paid fire service. To accomplish this mission, TCFP certifies fire service personnel and training providers; develops training materials; and enforces agency statute and rules by inspecting fire departments and investigating complaints. TCFP currently certifies about 36,600 paid personnel and about 190 training providers. TCFP is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The Sunset Advisory Commission found that setting and enforcing standards for the training, certification, and equipping of the paid fire service is vital to protecting the safety of Texans, and that TCFP is well-positioned to provide this oversight role. However, Texas does not take full advantage of TCFP's expertise in working with the State Fire Marshal's Office to help minimize fire fighter injuries. The Sunset Advisory Commission also identified other areas of TCFP needing improvement, addressed in the legislation. This bill:

Continues TCFP until September 1, 2021.

Authorizes TCFP to conduct inspections of institutions and facilities that conduct fire protection training courses, in addition to the biennial compliance inspections currently required under state law, to assess safety risk and specifies factors for the commission to consider in determining whether to conduct such an inspection.

Sets forth provisions relating to disciplinary actions and administrative and civil penalties against fire departments, training providers, and certified personnel that commit inspection violations or fail to take corrective action on a violation.

Requires TCFP to develop and implement a method for tracking and analyzing complaint violation data.

Requires TCFP and the commissioner of insurance to transfer between the two agencies injury information from the Texas Fire Incident Reporting System and workers' compensation data showing claims filed by fire protection personnel.

Requires TCFP to evaluate the injury information and develop recommendations for reducing such injuries.

Prohibits TCFP from certifying a person as fire protection personnel unless TCFP has approved fingerprint-based criminal history record information about the person obtained from the Department of Public Safety and the Federal Bureau of Investigation.

Requires TCFP to establish criteria for denying certification based on criminal history.

Removes the \$35 cap on the fee for a certificate issued or renewed by TCFP, effective January 1, 2010.

Authorizes TCFP to set the amount of the fee for a certificate issued or renewed.

Requires a fire department or other employing entity renewing a certification to submit to TCFP evidence of completion of any required professional education.

Abolishes the Fire Department Emergency Program (program), effective January 1, 2010, established under TCFP to provide financial assistance for purchasing equipment and facilities and providing education scholarships for municipal and volunteer fire departments and certain firefighting organizations, and transfers all money, loans and

other contracts, leases, property, and obligations of TCFP related to the program, and the balance of any money appropriated by the legislature for the program, to the Texas Forest Service (TFS).

Requires TFS to maintain a separate account within the volunteer fire department assistance fund to contain money transferred from the program and money from legislative appropriations.

Authorizes the money in the account to be used only for firefighter education and training scholarship grants or for purchasing firefighting equipment and facilities for municipal and volunteer fire departments.

Requires TCFP to coordinate with appropriate state and federal agencies in a declared state of disaster, including the governor's office of homeland security and the Federal Emergency Management Agency.

**Department of Agriculture, Prescribed Burning Board, Texas Bioenergy Policy Council,
Texas Bioenergy Research Committee, and Texas-Israel Exchange Fund Board—S.B. 1016**

by Senators Estes and Hegar—House Sponsor: Representative Flynn et al.

The Texas Department of Agriculture (TDA), Prescribed Burning Board (PBB), and Texas-Israel Exchange Fund Board (board) are subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. TDA encompasses all phases of modern agriculture, agricultural businesses, and consumer protection. To fulfill its mission of making Texas leader in agriculture, TDA promotes Texas agricultural products; promotes economic development in rural communities; regulates pesticides, measuring devices, and agricultural commodities; controls destructive plant pests and diseases; and administers federal nutrition programs for children and adults. Prescribed burning serves a need in Texas for controlling vegetative fuels that can contribute to wildfires and for managing land to maintain or restore ecosystems. Regulation of certified prescribed burn managers is intended to ensure that those responsible for conducting these burns have the training, experience, and financial responsibility to protect the interests of land owners. PPB, however, has no enforcement authority against certified prescribed burn managers who are negligent in conducting a burn or who fail to maintain insurance coverage required for certification. PPB also lacks the ability to go after unlicensed activity, among other limitations. The board provides funding for agricultural research projects intended to be of mutual benefit to Texas and Israel. While the board is able to leverage state dollars to fund useful research for Texas agriculture, the funding for and results of these projects are not transparent to the legislature, the agriculture industry, or the public. The same functions could be provided by an advisory committee, rather than a semi-independent board. This bill:

Continues TDA until September 1, 2021.

Revises eligibility requirements for the commissioner of agriculture (commissioner) to authorize the occupancy of that position by a person who, if not otherwise eligible, has worked for at least five preceding calendar years for an agricultural producer association.

Eliminates provisions requiring TDA to report annually on gifts and grants.

Increases the number of members on the board of directors of the Texas Agricultural Finance Authority (TAFa).

Transfers the power to appoint board members from the governor to the commissioner.

Provides that the Texas Public Finance Authority (TPFA) has the exclusive power to act on behalf of TAFa in issuing debt.

Requires the TAFa board of directors (board) to establish an interest rate reduction program.

Requires the board to adopt rules for the loan portion of the interest rate reduction program.

Provides that the maximum loan amount for the program is \$500,000.

Requires the board to charge an administrative fee for guaranteeing a loan under Subchapter E (Young Farmer Loan Guarantee Program) that is prohibited from being less than one percent of the amount of the guaranteed loan.

Requires the board to by rule adopt an agreement to be used between a lender and an approved applicant under which TFA makes a payment from the Texas agricultural fund for the purpose of providing a reduced interest rate on a loan guarantee to a borrower.

Requires that the agreement require the borrower to use the proceeds of the loan for the purposes of the program under which the payment is made.

Creates the Texas Rural Investment Fund to be used by TDA to pay for grants or loans to public or private entities in rural communities to stimulate local entrepreneurship, job creation or retention, new capital investment, strategic economic development planning, individual economic and community development leadership training, housing development, or innovative workforce education.

Provides that a rural community is a municipality with a population of less than 50,000 or a county with a population of less than 200,000.

Creates a rural economic development and investment program for attracting new private enterprises including manufacturing, freight storage, and distribution warehouses, water or waste disposal facilities, transportation infrastructure, and land, easements, or rights-of-way.

Authorizes financial assistance under the program to go to a municipality with a population of not more than 50,000, a county with a population of not more than 75,000, or an economic development corporation or community development financial institution that primarily represents such a municipality or county.

Increases the maximum administrative penalties for various Agriculture Code violations.

Authorizes TDA, in specified cases, to obtain criminal history record information from the Department of Public Safety.

Authorizes TDA to develop an outreach program to promote better health and nutrition and prevent obesity among Texas children.

Creates a Texas Bioenergy Policy Council and a related consortium, the Texas Bioenergy Research Committee (research committee) to promote the goal of making biofuels a significant part of the energy industry in Texas.

Abolishes the Texas-Israel Exchange Fund Board and the associated fund.

Authorizes TDA to establish the Texas-Israel Exchange Advisory Committee (advisory committee) to support joint agricultural research and development with Israel.

Combines the functions of the advisory committee and the research committee into one committee and makes its appointment mandatory.

Modifies the composition of the governing body of the Texas Beef Council (council).

Authorizes the council to administer in Texas the beef check off program established by federal law.

Provides that a livestock association authorized to inspect livestock under federal law has no duty to verify ownership at the point of sale.

Eliminates the mandatory licensing of cash dealers for those handling and marketing perishable commodities.

Transfers appointment authority for the Produce Recovery Fund Board and the State Seed and Plant board from the governor to, respectively, the commissioner of agriculture and with the commissioner and specified university presidents.

Requires TDA, when advised of the existence of Mexican fruit fly within a county or part of a county in this state, to certify that fact and proclaim the county or part of a county quarantined.

Reduces requirements relating to the labeling of rose plants and rose plant shipments.

Provides that it is a Class C misdemeanor offense if a person uses, for commercial purposes, citrus budwood that TDA rules require to be certified but that is not certified or does not come from a designated foundation grove.

Requires TDA to recognize the Texas Citrus Pest and Disease Management Corporation, Inc. (corporation), a Texas nonprofit corporation, as the entity to plan, carry out, and operate suppression programs to manage and control the Asian citrus psyllid and citrus greening in citrus plants in the state under the supervision of TDA.

Authorizes the commissioner to appoint an advisory committee for an existing pest management zone or an area of the state that is to be considered by the commissioner for designation as or inclusion in a pest management zone.

Removes a requirement that TDA, in certain cases before adopting rules, conduct at least five regional hearings throughout the state.

Provides that manual laborers and clerical employees who do not identify pests, make inspections or recommendations, apply pesticides or similar substances regulated by the TDA, or make or provide certain estimates, bids, or contracts are not engaged in the pest control business.

Requires that a certified commercial applicator or technician license be associated with a business license holder.

Provides that a certified commercial applicator, certified noncommercial applicator, or licensed technician need not obtain a separate license for each branch office of an employer.

Updates provisions relating to pest control information that are required to be made available for indoor treatments at various indoor locations.

Authorizes TDA to enter reciprocal licensing agreements regarding structural pest control with other states that have substantially equivalent license requirements.

Continues PBB until September 1, 2021.

Revises provisions relating to sanctions under the prescribed burning laws and to a certified and insured prescribed burn manager.

Authorizes a certified and insured prescribed burn manager to conduct a burn in a county in which a state of emergency or disaster has been declared by the governor or president unless the declaration expressly prohibits all outdoor burning.

Studies and Reviews of Appraisal Districts by the Comptroller of Public Accounts—H.B. 8

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

Current law requires the comptroller of public accounts (comptroller) to annually conduct a property value study in each school district to ensure the equitable distribution of state funds to public schools. This bill:

Increases accuracy and improves standards and practices relating to property appraisals in Texas.

Changes the frequency of the comptroller's property value study.

Provides that if after conducting the study for a year the comptroller determines that a school district is an eligible school district, for that year and the following year the taxable value for the school district is the district's local value.

Requires a school district, appraisal district, or other governmental entity in this state to promptly comply with an oral or written request from the comptroller for information to be used in conducting a study.

Requires the comptroller, at least once every two years, to conduct a study in each appraisal district to determine the degree of uniformity of and the median level of appraisals by the appraisal district within each major category of property.

Requires the comptroller, at least once every two years, to review the governance of each appraisal district, taxpayer assistance provided, and the operating and appraisal standards, procedures, and methodology used by each appraisal district, to determine compliance with generally accepted standards, procedures, and methodology.

Creates the nine-member Comptroller's Property Value Study Advisory Committee.

Motor Vehicle Sales Tax Exemption and Orthopedic Impairments—H.B. 236

by Representative Rodriguez et al.—Senate Sponsor: Senator Watson

Current statute states that persons with orthopedic impairments needing modifications to either drive their vehicle or be transported in a vehicle are exempt from paying sales taxes on the vehicle. The current rule from the comptroller of public accounts (comptroller) states that if the purchaser of the vehicle meets the eligibility requirements for the exemption, then the sales tax is removed.

The dealer is not required to remove the tax before the sale of the vehicle. Some dealers have expressed frustration with the paperwork they are required to complete and are reticent to do so. In such situations, the customer pays the tax and completes the certificate. In addition to completing the certificate the customer carries the cost of the sales tax until reimbursement is received, which can be unaffordable for many of these customers. This bill:

Prohibits the seller of a motor vehicle from collecting the tax from the purchaser of the motor vehicle if the purchaser signs at the time of the purchase an exemption certificate that is on a form designated by the comptroller, and contains all information the comptroller considers reasonable to establish qualification for the exemption at the time of sale, and presents any other documentation or information the comptroller requires by rule.

Authorizes the seller of a motor vehicle to rely on a properly executed and signed exemption certificate and provides that the seller does not have a duty to investigate the propriety of an exemption certificate that is valid on the certificate's face.

Provides that a seller who relies on a properly executed and signed exemption certificate as provided by this subsection is not liable for motor vehicle sales taxes that would otherwise be due as a result of a motor vehicle sale.

Excess Proceeds of Sale or Foreclosure of a Tax Lien on Real Property—H.B. 406

by Representative Rodriguez—Senate Sponsor: Senator Carona

When property taxes are not paid, a taxing unit may sue the property owner, obtain a judgment, and sell the property at a county auction to collect the owed taxes. At the auction, the county generally makes an initial bid for the property that reflects the amount of taxes due plus interest, penalties, and court costs. If the property sells for more than the minimum bid, the former property owner is entitled to the amount of the surplus monies. The surplus amount is referred to as the excess proceeds.

Prior to the county auction, people unrelated to the property may obtain information about the former property owner, including contact information and the amount of excess proceeds owed to the former property owner. In an effort to make an investment, the person may then approach the property owner and offer to purchase the property owner's rights. If the property owner agrees to transfer his or her interest, the transfer may be accomplished by an assignment, transfer, or other contractual agreement. These agreements often involve a finder's fee or derivative of a finder's fee to be paid to the investor. This practice is unregulated, including the amount of the fees that may be charged.

Former property owners may retain an attorney to petition the court for excess proceeds owed to the former property owner. In the Tax Code, the attorney's fees are limited to 25 percent of the excess proceeds. This bill:

Requires a person conducting a sale for the foreclosure of a tax lien under Rule 736 of the Texas Rules of Civil Procedure, within 10 days of the sale, to pay any excess proceeds after payment of all amounts due all participants in the sale to the clerk of the court that issued the order authorizing the sale.

Prohibits a former owner of the property that acquired an interest in the property after the date of the judgment from establishing a claim to the proceeds.

Prohibits a person from taking an assignment or other transfer of an owner's claim to excess proceeds unless certain conditions are met.

Prohibits a person who is not an attorney from charging a fee to obtain excess proceeds for an owner.

Prohibits the amount of the excess proceeds the court may order be paid to an assignee or transferee from exceeding 125 percent of the amount the assignee or transferee paid the assignor or transferor on the date of the assignment or transfer.

State Tax Permit or License Information—H.B. 422

by Representative Guillen—Senate Sponsor: Senator Lucio

The comptroller of public accounts (comptroller) requires businesses that operate in Texas to apply for certain permits or licenses in order to facilitate the timely payment of taxes. Currently, the comptroller is not required to warn these businesses that state or local governments might require that additional steps be taken before business may be conducted. This bill:

Informs a tax permit applicant of possible business license requirements.

Requires a prominent warning on the application for a permit or license administered by the comptroller to inform applicants that they may be required to obtain an additional permit or license from the State of Texas or from a local government entity in order to conduct business in Texas. The warning would refer applicants to a state website that would list links relating to the acquisition of licenses, permits, and registrations from the State of Texas. The warning

would direct applicants to check with the city and the county where the business will be located to determine any local or governmental requirements.

Requires the comptroller to update the application as necessary to reflect changes in the website's address.

Continuing the Homestead Exemption While Rebuilding Damaged Homes—H.B. 770

by Representative Donna Howard et al.—Senate Sponsor: Senators Mike Jackson and West

For the purpose of establishing eligibility for a certain property tax exemption, current law defines a residence homestead to include both a structure and a piece of land. Therefore, if the structure is destroyed by a natural disaster or other event not within the homeowner's control, the property no longer qualifies for a homestead exemption. This bill:

Requires the continuation of a homestead exemption when a residence is temporarily uninhabitable due to a casualty or to wind or water damage only if a homeowner begins repairs within one year. Limits continuation to two years and provides that it is not available if the owner establishes a homestead exemption on another residence. Imposes an additional tax to recapture the tax lost due to the continued exemption if the owner sells the property before the completion of a replacement structure. Requires a lien to be attached to the property to secure payment of the additional tax and interest.

Restricts the authority to bring an action to remove a house that is partially located on a public beach as a result of a meteorological event by prohibiting a county attorney, district attorney, or criminal district attorney or the attorney general from filing a suit to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove a house from a public beach if certain conditions are met.

Provides an exemption for property owned by qualified nonprofit community business organizations that provide economic development services to a local community.

Prevents a tax ceiling from expiring because the property has been rendered uninhabitable.

Specifies that a replacement structure that meets the requirement of Section 11.135 (Continuation of Certain Homestead Exemption While Replacement Structure is Constructed; Sale of Property) is not to be treated as a new improvement for the purpose of calculating the tax ceiling.

Requires that the replacement structure of a property qualified for a certain limitation on appraised value increases be appraised at the appraised value the structure would have in the preceding year had the casualty not occurred, unless the square footage exceeds that of the replacement structure or if the exterior is of higher quality construction and composition than that of the replaced structure.

Appeal of Ad Valorem Tax Determinations—H.B. 986

by Representative Villareal—Senate Sponsor: Senator Hinojosa

Current law provides that a taxing unit shall send any refund to the "property owner." The term "property owner" has different meanings to different taxing units and has resulted in refunds being sent to a variety of locations including the owner as of January 1, an owner purchasing after January 1, a lessee, the mortgage company, the tax agent, or the attorney of record. This bill:

Requires a party who appeals as provided by this chapter to file a petition for review with the district court within 60 days after the party received notice that a final order has been entered from which an appeal may be had or at any time after the hearing but before the 60-day deadline.

Prohibits a taxing unit from sending a refund made under this section before the earlier of the 21st day after the final determination of the appeal, or the date the property owner files the form.

Provides that a refund is not considered made until sent to the proper person.

Requires a taxing unit, with certain exceptions, to send a refund to the property owner.

Authorizes the final judgment in an appeal to designate to whom and where a refund is to be sent.

Requires the taxing unit, if a form prescribed by the comptroller of public accounts (comptroller) is filed with a taxing unit before the 21st day after the final determination of an appeal that requires a refund be made, to send the refund to the person and address designated on the form.

Provides that a form filed with a certain taxing unit remains in effect for all subsequent refunds required by this section until revoked in a written revocation filed with the taxing unit by the property owner.

Requires the comptroller to prescribe the form necessary to allow a property owner to designate the person to whom a refund must be sent. Requires the comptroller to include on the form a space for the property owner to designate to whom and where the refund is required to be sent and provide options to mail the refund to the property owner, the business office of the property owner's attorney of record in the appeal, or any other individual and address designated by the property owner.

Protest of Ad Valorem Taxes Before Appraisal Review Board—H.B. 1030

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

Chapter 6 of the Tax Code establishes an appraisal review board for each appraisal district in the state to determine protests and challenges to the appraisal records or appraisal roll. That chapter also sets forth the eligibility requirements and appointment procedures for members of the appraisal review board. Chapter 41 of the Tax Code sets forth the duties of the appraisal review board and the procedures for protesting the appraised value of property before the board. This bill:

Provides that members of an appraisal review board are appointed by the local administrative district judge in a county with a population of 3.3 million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more and sets forth the procedures and requirements for such appointments.

Requires an appraisal district established for a county having a population of 500,000 or more to implement a system that allows property owners to file and receive certain information electronically.

Requires an appraisal review board to postpone a hearing if a property owner shows good, rather than reasonable, cause for postponement.

Authorizes the chairman of an appraisal review board to take certain actions relating to the postponement of a hearing.

Entitles an individual exempt from registration as a property tax consultant who files a protest with the an appraisal review board on behalf of a property owner to receive all notices from the appraisal district regarding the property subject to the protest until the authority is revoked by the property owner.

Market Value of a Residence Homestead—H.B. 1038

by Representative Paxton et al.—Senate Sponsor: Senator Dan Patrick

The Property Tax Relief and Appraisal Reform Select Committee heard testimony throughout the state. One problem identified by witnesses was the exclusion by some appraisal districts of recently foreclosed properties and properties with distressed resale values due to the declining economy located in the same neighborhood when determining the fair market value of a property. Under current law, appraisals are conducted under the cost method, the income method, or the market data comparison method. There are currently no exclusions to prevent appraisal districts from not counting the values of foreclosed properties or properties that have dropped in value. This bill:

Prohibits the chief appraiser, notwithstanding Section 1.04(7)(C) (relating to the definition of market value), Tax Code, in determining the market value of a residence homestead, from excluding from consideration the value of other residential property that is in the same neighborhood as the residence homestead being appraised and would otherwise be considered in appraising the residence homestead because the other residential property was sold at a foreclosure sale conducted in any of the three years preceding the tax year in which the residence homestead is being appraised and was comparable at the time of sale based on relevant characteristics with other residence homesteads in the same neighborhood or has a market value that has declined because of a declining economy.

Agents of a Property Owner in a Property Tax Matter—H.B. 1203

by Representatives Elkins and Pena—Senate Sponsor: Senator Hegar

Currently, the designation of a person to act as an agent for a property owner involved in a property tax matter is required to be made by written authorization. Additionally, in 2008, Texas Attorney General Greg Abbott issued an opinion, GA-0589, indicating that verbal authorization may be used as means to designate an agent for a property owner involved in a property tax matter. Current law, however, does not require that the authorization of an agent be provided on a prescribed form and given to an appraisal district before the authorization becomes effective.

Filing protests without clearly authorizing an agent has become a widespread problem. There are situations in which multiple agents sometimes claim to represent the same party. As a result, appraisal districts may eventually learn that the property owner never appointed anyone as an agent. This bill:

Requires that written authorization of the designation of an agent be on a form prescribed by the comptroller of public accounts and filed with an appraisal district before the designation is effective.

Refunds of Overpayments or Erroneous Payments of Ad Valorem Taxes—H.B. 1205

by Representative Button et al.—Senate Sponsor: Senator Carona

Section 31.11 (Refunds of Overpayments or Erroneous Statements), Tax Code, requires that a taxpayer apply to the tax-assessor-collector of the taxing unit for a refund and, on determination by the auditor for the taxing unit that an overpayment or erroneous payment was made, the tax assessor-collector must refund the amount of the overpayment or erroneous payment to the taxpayer.

When a tax assessor-collector collects taxes for just one taxing unit in a county with a population of over 1.5 million, the governing body of the taxing unit must also make a determination that an overpayment or erroneous payment

has been made. The requirement applies to any refund exceeding \$2,500. For a county with a population under 1.5 million, the governing body must make this determination for any refund exceeding \$500. Additionally, when a tax assessor-collector collects taxes for more than one taxing unit, the governing body must make this determination for any refund exceeding \$2,500. This bill:

Requires the tax collector, if a taxpayer applies to the tax collector of a taxing unit for a refund of an overpayment or erroneous payment of taxes and the auditor for the unit determines that the payment was erroneous or excessive, to refund the amount of the excessive or erroneous payment from available current tax collections or from funds appropriated by the unit for making refunds.

Prohibits the tax collector from making the refund unless, in the case of a tax collector who collects taxes for one taxing unit, the governing body of the taxing unit also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds \$5,000, for a refund to be paid by a county with a population of two million or more, or \$500 for a refund to be paid by any other taxing unit; or in the case of a tax collector who collects taxes for more than one taxing unit, the governing body of the taxing unit that employs the collector also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds \$5,000 for a refund to be paid by a county with a population of two million or more, or \$2,500 for a refund to be paid by any other taxing unit.

Payment in Installments of Ad Valorem Taxes on Certain Property—H.B. 1257

by Representative Legler et al.—Senate Sponsor: Senators Williams and Dan Patrick

Current Texas law allows the owner of a residence homestead that was damaged by a natural disaster and is located in a declared disaster area to pay the homeowner's property taxes in four installments. However, owners of damaged business property in a declared disaster area are not afforded the same option. There are many businesses in the Texas Gulf Coast region that sustained damage during Hurricane Ike that are unable to pay their property taxes in one payment because the business had the additional significant financial burden of restoring the business to its pre-disaster state.

For the purpose of establishing eligibility for a certain property tax exemption, current law defines a residence homestead to include both a structure and a piece of land. Therefore, if the structure is destroyed by a natural disaster or other event not within the homeowner's control, the property no longer qualifies for a homestead exemption. This bill:

Requires the continuation of a homestead exemption when a residence is temporarily uninhabitable due to a casualty or to wind or water damage only if a homeowner begins repairs within one year. The continuation is limited to two years and is not available if the owner establishes a homestead exemption on another residence. An additional tax is imposed to recapture the tax lost due to the continued exemption if the owner sells the property before the completion of a replacement structure and a lien must be attached to the property to secure payment of the additional tax and interest.

Prevents a tax ceiling from expiring because the property has been rendered uninhabitable.

Specifies that a replacement structure that meets the requirement of Section 11.135 (Continuation of Certain Homestead Exemption While Replacement Structure is Constructed; Sale of Property) is not to be treated as a new improvement for the purpose of calculating the tax ceiling.

Requires that the replacement structure of a property qualified for a certain limitation on appraised value increases be appraised at the appraised value the structure would have in the preceding year had the casualty not occurred,

unless the square footage exceeds that of the replacement structure or if the exterior is of higher quality construction and composition than that of the replaced structure.

Limits the gross receipts under Subsection (a)(1)(A)(ii) (relating to real property owned or leased by a business entity that had not more than a certain amount in gross receipts in the entity's most recent federal tax year or state franchise tax annual period, according to the applicable federal income tax return or state franchise tax report of the entity) to \$5 million. Requires the comptroller of public accounts (comptroller), for each subsequent tax year, to adjust the limit to reflect inflation by using the index that the comptroller considers to most accurately report changes in the purchasing power of the dollar for consumers in this state and to publicize the adjusted limit. Requires each tax collector to use the adjusted limit as calculated by the comptroller under this subsection to determine whether property is owned or leased by a business entity described by Subsection (a)(1)(A)(ii).

Hotel Occupancy Tax in a Certain County—H.B. 1275

by Representative Kolkhorst—Senate Sponsor: Senator Hegar

Current law authorizes the commissioners court of certain counties to impose a hotel occupancy tax. This bill:

Authorizes the commissioners court of a county in which the Declaration of Independence of the Republic of Texas was signed in 1836 to impose a hotel occupancy tax, and provides that such tax does not apply to a hotel located in a municipality that imposes a municipal hotel occupancy tax.

Date for Certification of Railroad Rolling Stock—H.B. 1309

by Representative Otto—Senate Sponsor: Senator Williams

Railroad rolling stock is one of the valuation components used in calculating county effective and rollback tax rates. The appraisal of this component is done by the comptroller of public accounts' (comptroller) property tax assistance division, rather than by local appraisal districts. Current law requires appraisal districts to certify property values to taxing entities on or before July 25 of each year, while the comptroller is required to certify railroad rolling stock values on or before July 31 of each year. The six-day variance delays the calculation and publication of county effective and rollback tax rates. Moving the rolling stock certification date to the same date as the required certification date for appraisal district removes the delays associated with providing data to county commissioners courts and budget officers. This bill:

Requires the comptroller to certify railroad rolling stock each year before July 26, rather than August 1.

Municipal Hotel Occupancy Tax—H.B. 1324

by Representative Ybarra—Senate Sponsor: Senator Lucio

The City of South Padre Island seeks the authority to increase its local hotel tax by an additional one percent that would be dedicated to marketing and expansion of the convention center facility.

Due to the costs of maintaining area beaches and dealing with beach erosion, in part, because of recent hurricanes, the city also seeks the authority to increase the local hotel occupancy tax rate by another one-half percent to fund coastal erosion and beach nourishment projects, producing a total increase of one-and-one-half percent. This bill:

Prohibits the rate in an eligible barrier island coastal municipality from exceeding eight-and-one-half percent of the price paid for a room.

Requires an eligible barrier island coastal municipality to use at least the amount of revenue derived from the application of the tax at a rate of seven percent of the cost of a room for the acquisition of sites of certain facilities, advertising and other promotional practices.

Requires an eligible barrier island coastal municipality that imposes the tax at a rate equal to or greater than seven-and-one-half percent of the price paid for a room to use at least the amount of revenue derived from the application of the tax at a rate of one-half of one percent of the cost of a room for erosion response projects.

Redemption of Real Property Sold at an Ad Valorem Tax Sale—H.B. 1407

by Representative Geren—Senate Sponsor: Senator Wendy Davis

An owner of real property sold at a tax sale may redeem the property by paying the statutorily required amount to the county assessor-collector. The owner must provide an affidavit establishing certain facts before the assessor-collector is obligated to carry out the redemption. Under current law, the facts provided by an owner in the affidavit need not include the nature and use of the property or the timeliness of the redemption. This bill:

Requires an owner of real property to state in the affidavit that the owner's redemption period has not expired, thus absolving the assessor-collector of making fact determinations regarding that issue.

Reinforces that an assessor-collector is not liable for acting in reliance upon the statements made in the affidavit.

Limited Period for School Supplies Sales Tax Exemption—H.B. 1801

by Representative Bohac et al.—Senate Sponsor: Senator Shapiro et al.

School backpacks and clothing are currently exempt from state sales and use taxes for a specific period of time preceding the start of the school year. This bill:

Adds certain school supplies, as defined under the Streamlined Sales and Use Tax Agreement, to the list of items exempt from sales and use taxes during the specified period.

Reporting of Certain Inventories for Ad Valorem Tax Purposes—H.B. 2071

by Representative Oliveira—Senate Sponsor: Senator Dan Patrick

Since 1994, dealers of motor vehicles, heavy equipment, and vessels and outboard motors, and retailers of units of manufactured housing have been required to file an inventory tax statement with their local tax assessor-collector each month. Taxing jurisdictions, as well as the comptroller of public accounts, have interpreted the law to require that such statements be filed no later than the 10th day of the month following the reporting month, regardless of whether a sale occurred in the previous month. This fostered consistency in reporting and enforcement, and late filers could be tracked and required to comply. Recently, a court questioned this interpretation of the law, indicating that a statement need be filed only if sales occurred during the previous month. This bill:

Requires that inventory tax statements be filed monthly, regardless of whether sales occurred.

Use of State Hotel Occupancy Tax—H.B. 2276*by Representative Hunter—Senate Sponsor: Senator Hinojosa*

Revenue on hotel rooms costing \$15 or more incurs a hotel occupancy tax. The comptroller of public accounts is required to remit one percent of hotel occupancy taxes from hotels located on an eligible barrier island coastal municipality (municipality) to the municipality, which may then use those funds only to clean and maintain public beaches or to address erosion problems in the municipality's jurisdiction. This bill:

Redefines "eligible barrier island coastal municipality" to mean a municipality the boundaries of which are within 30 miles of the United Mexican States or include a national estuarine research reserve.

Procedure Used by a Taxing Unit in Adopting an Ad Valorem Tax Rate—H.B. 2291*by Representative Gattis et al.—Senate Sponsor: Senator Ogden*

A taxing unit may not impose property taxes until its governing body has adopted a tax rate for the year. The vote setting the tax rate must be separate from the vote adopting the budget. The vote setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt a tax rate that exceeds the effective tax rate must be made in a certain form. If the tax rate, applied to the total taxable value, would impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the taxing unit must meet specific requirements designed to give notice to the community of an impending vote on a tax increase. Under Section 26.04 (Submission of Roll to Governing Body; Effective and Rollback Tax), Tax Code, "effective tax rate" is defined as the total of last year's levy minus the lost property levy divided by the total of current market value minus new property value. Under Section 26.012 (Definitions), Tax Code, "last year's levy" means the total of the amount of taxes that would be generated by multiplying the total tax rate adopted by a taxing unit in the preceding year by the total value of property on the appraisal roll of the proceeding year. "Lost property levy" means the amount of taxes levied in the preceding year on property value that was taxable in the preceding year but is not taxable in the current year because the property is exempt in the current year, the property has qualified for special appraisal, or the property is located in territory that has ceased to be part of the unit since the preceding year.

Currently, local taxing entities vote on the actual tax rate. This means they can lower a tax rate while still receiving an increase in revenue over the prior year, because appraisal creep has increased the total taxable value of the tax base. The effective tax rate is a much more accurate representation of whether a taxing unit will be increasing or decreasing its revenue over last year. By dealing with the effective tax rate, this bill would provide clarity and transparency, as voters would know what the actual change in their tax burden would be. This bill:

Requires that taxing units use certain wording in public meetings and on publications when a taxing unit increases taxes.

Requires that a motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate) taxes which is effectively a (insert percentage by which the proposed tax rate exceeds the effective tax rate) percent increase in the tax rate."

Appraisal Review Board Members—H.B. 2317*by Representative Villareal et al.—Senate Sponsor: Senator Seliger*

Many Texans have expressed concerns about the ability of local appraisal review boards to appropriately handle appraisal appeals. This bill:

Requires a comprehensive training course for new appraisal review board members and continuing education for all members and sets forth the required curricula and materials for use in the continuing education course.

Provides that the board of directors of the appraisal district is encouraged to select as chairman of the board a member of the board, if any, who has a background in law and property appraisal.

Federal Earned Income Tax Credit Information—H.B. 2360

by Representative Farias et al.—Senate Sponsor: Senator West

The earned income tax credit is a refundable federal income tax credit available to certain individuals and families who have low to moderate levels of earned income. According to the Center for Public Policy Priorities, 2.3 million Texans, who account for 21 percent of all filers, received the tax credit in 2009, which injected \$5.2 billion in refunds into the economy in Texas. As many as one in four eligible Texans fail to claim the earned income tax credit, which left \$1.4 to \$1.9 billion unclaimed in 2009. Dispersal of information about the tax credit will help Texans receive their full entitlement under the credit. This bill:

Requires each employer, not later than March 1 of each year, to provide to employees information regarding general eligibility requirements for the federal earned income tax credit.

Requires the employer to provide the required information to the employee in person; electronically at the employee's last known e-mail address; through a flyer included, in writing or electronically, as a payroll stuffer; or by mailing the information to the employee at the employee's last known address by United States first class mail.

Authorizes an employer to provide to the employer's employees IRS publications relating to the federal earned income tax credit, information prepared by the comptroller of public accounts relating to that credit, or federal income tax forms necessary to claim the federal earned income tax credit.

Requires the Texas Workforce Commission (TWC) to periodically notify employers regarding the requirement to provide information relating to the federal earned income tax credit.

Authorizes TWC to adopt necessary rules, including rules regarding the information that employers are required to provide regarding employee eligibility for the federal earned income tax credit.

Requires the comptroller of public accounts to produce and make available to employers, by written notice and a posting on the comptroller's Internet website, a form that includes information regarding the federal earned income tax credit for distribution and explaining the availability of and contact information for local volunteer income tax assistance programs.

Exemption from Ad Valorem Taxation of Certain Property—H.B. 2555

by Representatives Hilderbran and Guillen—Senate Sponsor: Senator Ogden

Charitable organizations that acquire property in order to provide low-income housing or for other charitable purposes have expressed concern that three years of tax exempt status is often not long enough to develop the acquired property. This bill:

Prohibits property from being exempted under Section 11.181(a) (relating to an organization's entitlement to an exemption from taxation of improved or unimproved real property it owns if the organization meets certain criteria), Tax Code, after the fifth anniversary of the date the organization acquires the property.

Provides that a corporation that is not a qualified charitable organization is entitled to an exemption from taxation of property if certain conditions are met.

Regulation of Property Tax Consultants—H.B. 2591

by Representative Thompson—Senate Sponsor: Senator Hegar

Texas' system of property tax appraisal appeals has created a growing industry of property tax consulting services. Certain property tax consulting firms have begun massive advertising campaigns and are representing thousands of clients. The current statutory and administrative regulatory system, administered by the Texas Department of Licensing and Regulation (TDLR), does not adequately ensure that clients of such firms get the quality of service they need, nor does it protect taxpayers from misleading and deceptive marketing by some of these firms, including filing fictitious protests on the taxpayers' behalf. Some consulting firms use contracts that allow them to hire attorneys and file appeals of appraisal review board decisions without the client's permission. This bill:

Requires an applicant for registration as a property tax consultant, in addition to satisfying the requirements of Section 1152.155 (General Eligibility for Registration), to complete at least 40 classroom hours, rather than 15 classroom hours, of educational courses approved by the executive director of TDLR (executive director), including at least four hours of instruction on laws and legal issues in this state related to property tax consulting services, and pass a competency examination.

Prohibits a person required to register under this chapter from serving as a registered senior property tax consultant for more than 10 registered property tax consultants unless each additional tax consultant sponsored or supervised by the registered senior property tax consultant has for the previous six months been employed and engaged as a tax consultant on a full-time basis, performed tax consultant related services as an employee of a property owner, or performed licensed appraisal services.

Prohibits a person required to register under this chapter from filing a protest under Chapter 41 (Local Review), Tax Code, except for protests filed with the approval of a lessee under Section 41.413 (Protest by Person Leasing Property), Tax Code, without the approval of the property owner.

Prohibits a person required to register under this chapter from falsifying an agent appointment, exemption application, protest, or other legal document that is filed with or presented to an appraisal district, an appraisal review board, or a taxing unit.

Prohibits a person required to register under this chapter from filing a motion or protest concerning residential property on behalf of a person whom the registrant does not represent unless the registrant has authorization from that person; or another person, other than the agent or firm that employs the agent, who is authorized by the person to designate agents under Section 1.111 (Representation of Property Owner), Tax Code.

Prohibits a person required to register under this chapter from soliciting a property tax consulting assignment by assuring a specific outcome.

Prohibits a person required to register under this chapter from soliciting a client for an attorney for the purpose of filing an appeal under Chapter 42 (Judicial Review), Tax Code, if the solicitation results in compensation to the person.

Prohibits a person required to register under this chapter from maintaining an Internet website for any purpose associated with the provision of tax consulting services by the registrant that has a domain name or other Internet address that implies that the website is a government website.

Prohibits a person required to register under this chapter from using or maintaining an Internet website for the purpose of soliciting clients if the website does not identify the company prominently on the home page of the website.

Prohibits a person required to register under this chapter from engaging the services of an attorney for purposes of filing an appeal under Chapter 42, Tax Code, without prior consent of the client.

Exemption from Ad Valorem Taxation of Certain Property—H.B. 2628

by Representatives Rodriguez and Leibowitz—Senate Sponsor: Senator Watson

For more than four years, Mobile Loaves and Fishes in Austin has been providing housing to the chronically homeless, utilizing gently used recreational vehicles (RV) placed in local RV parks. Over 85 percent of those served have continued to remain housed.

State law establishes exemptions from property taxation for a charitable organization based on the charitable functions provide by the organization. Containing the cost of operations and thus the ultimate cost of rent for each of its residents is essential to the success of this partnership. This bill:

Creates a property tax incentive allowing one nonprofit agency in Austin, Mobile Loaves and Fishes, to provide homeless services in the city.

Motor Vehicle Sales Tax on Gifted Vehicles—H.B. 2654

by Representative Oliveira—Senate Sponsor: Senator Averitt

In Texas, individuals receiving a vehicle as a gift pay a \$10 gift tax instead of the motor vehicle sales tax. The only evidence needed to confirm that the vehicle was received as a gift is the signature of the person making the gift on Form 130-U. This bill:

Redefines "sale" to include a transaction in which a motor vehicle is transferred to another person without payment of consideration and that does not qualify as a gift under Section 152.025 (Tax on Gift of Motor Vehicle), Tax Code.

Provides that a tax is imposed on the recipient of a gift of a motor vehicle.

Requires that the statement [required to be filed with the tax assessor-collector] be made by the principal parties, if the ownership of a motor vehicle is transferred as the result of an even exchange as a joint statement describing the nature of the transaction; or by the principal parties, if the ownership of a motor vehicle is transferred as the result of a gift, as a joint statement describing the nature of the transaction and the relationship between the principal parties and requires that a joint statement required by Section 152.062(b)(3) (relating to requiring principal parties to make a joint statement describing the nature of the transaction and the relationship between parties), Tax Code, be notarized.

Exemption from Ad Valorem Taxation for Certain Motor Vehicles—H.B. 2814

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

On November 6, 2007, Texas voters approved a constitutional amendment authorizing the legislature to exempt a passenger car owned by an individual and used for both the individual's occupation and personal activities that do not involve the production of income from property taxation. This exemption ensures fairness and uniformity in the application of property tax laws across Texas. Many appraisal districts require vehicle owners claiming a mixed-use

vehicle exemption to annually file an exemption form because current law does not provide a clear verification of the application for the exemption in subsequent years, thereby creating an inconvenience for both the vehicle owner and the appraisal district. This bill:

Establishes that an exemption from property taxation of a motor vehicle owned by an individual that is used in the course of the individual's occupation or profession, and is also used for personal activities of the owner, does not need to be claimed in subsequent years, once allowed, and applies to the property until it changes ownership or the person's qualification for the exemption changes.

Authorizes the chief appraiser to require a person allowed an exemption in a prior year to file a new application to confirm the person's qualification for the exemption.

Disclosure of Certain Ad Valorem Tax Appraisal Information—H.B. 2941

by Representative Paxton—Senate Sponsor: Senators Williams and Dan Patrick

Appraisal districts currently provide confidential information such as rendition statements and real personal property reports in connection with property appraisals to certain entities, including the comptroller of public accounts (comptroller) and employees of the comptroller, taxing units, and representatives engaged in the collection of delinquent taxes. The comptroller's office currently provides appraisal districts, school districts, and property owners who are protesting a comptroller finding in the state property value study with confidential information it receives. However, taxing units responsible for auditing, monitoring, or reviewing the operations of an appraisal district and school districts currently do not have the authority to obtain such information directly from appraisal districts when they are protesting a finding in the state property value study. This bill:

Authorizes the disclosure of information obtained by either the comptroller or appraisal districts relating to the appraisal of property involved in the comptroller's finding that it is being protested.

Authorizes information obtained by an appraisal district to be disclosed to an employee or agent of a school district preparing a protest of the property value study or to an employee or agent of a taxing unit responsible for auditing, monitoring, or reviewing the operations of an appraisal district.

Use of County Hotel Occupancy Tax in Certain Counties—H.B. 3136

by Representative Gallego—Senate Sponsor: Senator Uresti

The Tax Code sets forth the authorized uses and allocation of the county hotel occupancy tax for certain counties. Rivers and state parks in certain counties are major tourist attractions in the state, especially during the summer months, and these counties often experience an increase in maintenance and operation costs, trash and waste services, and law enforcement during months of high tourist activity. Use of the hotel occupancy tax in these counties, however, is restricted to the support and promotion of tourism and is not authorized to be used for such additional costs. This bill:

Authorizes a county that has a population of 28,000 or less, that has no more than four municipalities, and that is located wholly in the Edwards Aquifer Authority to use 75 percent of the revenue from the county hotel occupancy tax for the promotion of tourism and lodging and 25 percent of the revenue for the removal of trash and litter in the state-owned rivers and riverbeds and the provision and maintenance of litter containers on or adjacent to state-owned rivers and riverbeds primarily used by lodging guests and located within the boundaries of the county.

Tax Exemption for Certain Agricultural Purpose Property—H.B. 3144

by Representative Gonzalez Toureilles—Senate Sponsor: Senator Seliger

Currently, agricultural aircraft are not subject to the same tax exemptions extended to other forms of agricultural machinery. This bill:

Exempts certain items from certain taxes imposed in Section 151.316(a) (relating to items exempted from the taxes imposed by this chapter), Tax Code, including tangible personal property, including a tire sold or used to be installed as a component part of a motor vehicle, machinery, or other equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of food for human consumption, grass, feed for animal life, or other agricultural products to be sold in the regular course of business; machinery and equipment exclusively used in an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3; and tangible personal property used for or incorporated into a structure that is used for the disposal of poultry carcasses in accordance with Section 26.303 (Handling and Disposal of Poultry Carcasses), Water Code.

Exemption from Ad Valorem Taxation for Pollution Control Property—H.B. 3206

by Representatives Edwards and Hardcastle—Senate Sponsor: Senator Ellis

Currently, companies are permitted to subtract the value of any pollution control property from their overall taxable property value. Any facility, device, or method used for the control of air, water, or land pollution may be exempted. Property owners may submit applications to the Texas Commission on Environmental Quality (TCEQ) detailing the value of any pollution control property they may have. This bill:

Applies standards and methods for making determinations on pollution control property tax exemptions established in TCEQ rules adopted under Section 11.31(g) (relating to requirements for rules adopted under this section), Tax Code, uniformly to all such applications for determination submitted to TCEQ.

Requires TCEQ to establish a permanent advisory committee to advise TCEQ on making determinations on pollution control property tax exemptions. The committee would consist of representatives of industry, appraisal districts, taxing units, environmental groups, and those with substantial technical expertise in pollution control technology and environmental engineering.

Consolidation of Appraisal Review Boards—H.B. 3611

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

The quality and qualifications of appraisal review board (ARB) members vary around the state. Current law requires ARB members to complete an ARB training course authorized by the comptroller of public accounts (comptroller). ARB members are also required to complete at least two hours of open government training, consisting of a one-hour educational course on open meetings laws and a one-hour educational course on public information laws. However, there is currently no requirement for ARB members to be knowledgeable about real estate or property taxation prior to their service on an ARB. In less populated areas, it can be difficult to find well-qualified individuals with experience in property valuation. Allowing adjoining ARBs to consolidate means a greater talent pool for ARB membership will be available in those areas. This bill:

Authorizes the boards of directors in two or more adjoining appraisal districts to consolidate their ARBs by interlocal contract.

Pilot Program to Appeal Appraisal Review Board Order to SOAH—H.B. 3612

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

When an appraisal district (district) determines that the appraised value of certain property is \$1 million or more, state law currently authorizes the property owner to appeal the determination of the district to the appraisal review board (board). However, a perception exists among taxpayers that the board is an extension of the district, and as such the board will act in the best interests of the district, rather than the taxpayer. Upon a determination by the board, the taxpayer is authorized to appeal that decision to district court. Many cases brought before the board are complex and require extensive knowledge of property tax and real estate law, and an appeal to the district court offers the assurance of proper consideration and understanding of the arguments being presented. However, appealing to district court can be time-consuming and expensive, thereby reducing the number of taxpayers who choose to pursue such an appeal. An alternative to the current system is needed to reduce litigation expenses, yet provide a neutral third party to hear arguments and issue decisions. This bill:

Creates a three-year pilot program in Bexar, Cameron, El Paso, Harris, Tarrant, and Travis counties under which a property owner is authorized to appeal an order by the board to the State Office of Administrative Hearings (SOAH), and sets forth the requirements and procedures of the program.

Residential Value Basis for Tax Appraisal of Homestead Property—H.B. 3613

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

Current law requires that property be appraised for ad valorem taxation purposes at its market value. Market value must be determined by application of generally accepted appraisal methods and techniques. The same or similar appraisal methods and techniques must be used to appraise the same or similar kinds of property, but each property must be appraised based on the individual characteristics that affect its market value. This bill:

Entitles a disabled veteran who receives from the United States Department of Veterans Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability to an exemption from taxation of the total appraised value of the veteran's residence homestead.

Requires that the market value of a residence homestead be determined solely on the basis of the property's value as a residence homestead, regardless of whether the residential use of the property by the owner was considered to be the highest and best use of the property.

Authority to Impose Hotel Occupancy Tax by Certain Counties—H.B. 3669

by Representative Hopson—Senate Sponsor: Senator Ogden

Chapter 352 (County Hotel Occupancy Tax) authorizes certain counties to impose a hotel occupancy tax to provide funding for certain projects within the county. This bill:

Authorizes the commissioners court of a county with a population of more than 20,000 that is bordered by the Neches and Trinity Rivers and that contains portions of the Davy Crockett National Forest to impose a hotel occupancy tax that may not exceed two percent of the price paid for a room in a hotel.

Authorizes the commissioners court of a county that has a population of 150,000 or more and that is bordered by the Brazos and Navasota Rivers to impose a hotel occupancy tax, and deletes existing text providing that this subsection expires September 1, 2015.

Tax Economic Development Act—H.B. 3676

by Representative Heflin et al.—Senate Sponsor: Senator Seliger

Under the Tax Economic Development Act, Chapter 313, Tax Code, a school district may agree to limit the appraised value of property in the district for property tax purposes. A project must meet minimum requirements for investment and job creation to qualify for a value-limitation agreement. The program has been very successful in bringing new investments and jobs to Texas. Through the beginning of 2009, 90 projects involving over \$40 billion of new investment and an estimated 5,600 high-wage jobs have qualified for Chapter 313 agreements. These new facilities include semiconductor manufacturing, chemical plants, auto manufacturing, research and development facilities, renewable energy, and nuclear energy. However, some provisions of Chapter 313 need clarification to increase the effectiveness and transparency of value-limitation agreements between school districts and owners or lessees of certain kinds of property. This bill:

Provides that Subchapters B (Limitation on Appraised Value of Certain Property), C (Limitation on Appraised Value of Property in Certain Rural School Districts), and D (School Tax Credits) expire December 31, 2014.

Redefines "qualified investment," "qualified property," "qualifying job," "qualifying time period," "county average weekly wage for manufacturing jobs," and "manufacturing," and defines "research and development" and "computer center."

Requires the entity, to be eligible for a limitation on appraised value, to use the property in connection with certain activities, including a computer center primarily used in connection with one or more described activities conducted by the entity.

Authorizes the owner or lessee of, or the holder of another possessory interest in, any qualified property to apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property.

Requires the school district, within seven days of the receipt of each document, to submit to the comptroller of public accounts (comptroller) a copy of the application and the agreement between the applicant and the school district; if an economic analysis of the proposed project is submitted to the school district, to submit a copy of the analysis to the comptroller; and in addition, any subsequent revision of or amendment to any of those documents within seven days of its receipt.

Requires the comptroller to publish each document received from the school district under this subsection on the comptroller's Internet website.

Requires the school district, if the school district maintains a generally accessible Internet website, to provide on its website a link to the location of those documents posted on the comptroller's website in compliance with this subsection.

Provides that this subsection does not require the comptroller to post information that is confidential.

Requires the governing body of a school district to approve or disapprove an application before the 151st day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

Requires the comptroller, before the 91st day after the date the comptroller receives the copy of the application, to submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved.

Authorizes the governing body of a school district to approve an application that the comptroller has recommended should be disapproved only if the governing body holds a public hearing the sole purpose of which is to consider the application and the comptroller's recommendation, and at a subsequent meeting of the governing body held after the date of the public hearing, at least two-thirds of the members of the governing body vote to approve the application.

Requires the comptroller, after receiving a copy of the application, to determine whether the property meets the requirements for eligibility for a limitation on appraised value.

Requires the comptroller to notify the governing body of the school district of the comptroller's determination and provide the applicant an opportunity for a hearing before the determination becomes final.

Provides that the comptroller is not required to provide an economic impact evaluation of the application or to submit a recommendation to the school district as to whether the application should be approved or disapproved, and the governing body of the school district is prohibited from granting the application, if the comptroller's determination that the property does not meet the requirements for eligibility for a limitation on appraised value becomes final.

Requires the economic impact evaluation of the application to include certain information relating to the projected impact and effects of the project.

Requires the comptroller to post on the comptroller's Internet website each document or item of information the comptroller designates as substantive before the 15th day after the date the document or item of information was received or created and requires each document or item of information to continue to be posted until the appraised value limitation expires.

Requires the comptroller to designate as substantive each application requesting a limitation on appraised value, the economic impact evaluation made in connection with the application, and each application requesting school tax credits.

Requires the school district, if a school district maintains a generally accessible Internet website, to maintain a link on its Internet website to the area of the comptroller's Internet website where information on each of the district's agreements to limit appraised value is maintained.

Authorizes the agreement for the implementation of the limitation on appraised value, in addition, to adhere to certain requirements and authorizations, including to provide that the property owner will protect the school district in the event the district incurs extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project.

Authorizes the agreement between the governing body of the school district and the applicant to provide for a deferral of the date on which the qualifying time period for the project is to commence or, subsequent to the date the agreement is entered into, be amended to provide for such a deferral.

Prohibits this subsection from being construed to permit a qualifying time period that has commenced to continue for more than the number of years applicable to the project under the definition of "qualifying time period."

Prohibits a person and the school district from entering into an agreement under which the person agrees to provide supplemental payments to a school district in an amount that exceeds an amount equal to \$100 per student per year in average daily attendance, or for a period that exceeds the period beginning with the period described by Section 313.021(4) and ending with the period described by Section 313.104(2)(B), Tax Code.

Provides that this limit does not apply to amounts relating to the adjustment of the minimum valuations, the payment of revenue offsets, and other mechanisms agreed to by the property owner and the school district or the agreement to provide that the property owner will protect the school district in the event the district incurs certain extraordinary education-related expenses related to the project that are not directly funded in state aid formulas.

Requires a person with whom a school district enters into an agreement under Subchapter B, Tax Code, to make the minimum amount of qualified investment during the qualifying time period and create the required number of qualifying jobs during each year of the agreement.

Provides that the property owner is liable to this state for a penalty equal to the amount computed by subtracting from the market value of the property for that tax year the value of the property as limited by the agreement and multiplying the difference by the maintenance and operations tax rate of the school district for that tax year, if in any tax year a property owner fails to comply with Subsection (a).

Provides that a penalty imposed becomes delinquent if not paid on or before February 1 of the following tax year and that Section 33.01 (Penalties and Interest) applies to the delinquent penalty in the manner that section applies to delinquent taxes.

Requires information provided to a school district in connection with an application for a limitation on appraised value that describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application to be segregated in the application from other information in the application and provides that the information is confidential and not subject to public disclosure unless the governing body of the school district approves the application.

Prohibits other information in the custody of a school district or the comptroller in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility, from being considered confidential business information if the governing body of the school district agrees to consider the application.

Provides that information in the custody of a school district or the comptroller if the governing body approves the application is not confidential under this section.

Provides that Subchapter C, Tax Code, applies only to a certain school district, including a school district that has territory in an area that qualified as a strategic investment area under Subchapter O, Chapter 171 (Franchise Tax), immediately before that subchapter expired.

Provides that an application for a tax credit under Subchapter D, Tax Code, or any information provided by the school district to the Texas Education Agency under Section 42.2515 (Additional State Aid for Ad Valorem Tax Credits under Texas Economic Act), Education Code, is not confidential.

Requires the governing body of the school district, before granting the application for a tax credit, to determine the person's eligibility for a tax credit and if the person's application is approved, by order or resolution direct the collector of taxes for the school district to take certain actions.

Redefines "taxable value" for the purposes of Section 403.302 (Determination of School District Property Values), Government Code.

Repeals Section 313.029 (Tax Limitation), Tax Code.

Provides that certain sections, as amended by this Act, are intended to clarify rather than change existing law and that the clarification made by Section 313.021(5), Tax Code, as amended by this Act, is necessary to allow the Texas

Workforce Commission to implement that subdivision in conformance with the data collection requirements imposed by the federal government.

Requires the Legislative Budget Board to conduct an effectiveness and efficiency review of the economic development programs established under Chapter 313, Tax Code, and report the results of the review to the legislature not later than January 1, 2011.

Deposit by Property Owner to Appeal Appraisal Review Board Orders—H.B. 4412

by Representative Taylor—Senate Sponsor: Senator Dan Patrick

Currently, if a property owner requests binding arbitration to appeal an appraisal review board's orders involving two or more tracts of land that are contiguous to one another, the property owner must pay an arbitration deposit in the amount of \$500 for each tract of land. This bill:

Provides that if a property owner requests binding arbitration to appeal appraisal review board orders involving two or more tracts of land that are contiguous to one another, a single arbitration deposit in the amount of \$500 is sufficient to satisfy such requirement.

Exemption from Oil and Gas Severance Taxes—H.B. 4433

by Representative Rodriguez—Senate Sponsor: Senator Seliger

There is great potential for renewable energy to be produced from underground heat in Texas, and some Texas businesses are already taking advantage of this situation to produce geothermal energy. Under current law, however, producers of geothermal energy are subject to oil and gas severance taxes because oil and natural gas may be incidentally produced during the production of geothermal energy. This bill:

Provides that gas and oil incidentally produced in association with the production of geothermal energy is not subject to the tax imposed by Chapters 201 (Gas Production Tax) and 202 (Oil Production Tax), Tax Code.

Treatment of Proceeds from Certain Loans and Securities—H.B. 4611

by Representatives Oliveira and Otto—Senate Sponsor: Senator Williams

Under the margins tax, a business must apportion its gross receipts between those that represent business activity in Texas and those that do not. This apportionment is to ensure that the margins tax only applies to business activity that took place in Texas. H.B. 3928, 80th Legislature, 2007, revised the manner in which a taxable entity's revenue from the sale of securities was apportioned in Texas. Under H.B. 3928, if a loan or security was treated as a seller's "inventory" for federal income tax purposes, the gross proceeds from the sale of a loan or security are to be considered gross receipts for apportionment purposes when calculating a business's margins tax liability. Financial Accounting Standard 115 requires banks to divide their securities portfolios into three categories — trading securities, securities available for sale, and securities held to maturity — and applies different accounting rules to each. This bill:

Provides that, notwithstanding Section 171.1055 (Exclusion of Certain Receipts for Margin Apportionment), if a lending institution categorizes a loan or security as "Securities Available for Sale" or "Trading Securities" under Financial Accounting Standard No. 115, the gross proceeds of the sale of that loan or security are considered gross receipts. Defines "Financial Accounting Standard No. 115" and "security."

Rate of the Municipal Hotel Occupancy Tax—H.B. 4661

by Representative Fred Brown—Senate Sponsor: Senator Ogden

Currently the City of College Station (College Station) is trying to identify a new revenue stream to dedicate towards the construction of a convention center. This bill:

Authorizes the tax imposed by Chapter 351 (Municipal Hotel Occupancy Tax), Tax Code, in a home-rule municipality that was originally chartered in or after 1938, that is home to a major state university, and that is located in a county bordered by the Brazos and Navasota rivers, to be imposed at any rate not to exceed 7.75 percent of the price paid for a room in a hotel.

Requires the municipality to allocate for the construction of a convention center in the municipality all revenue received by the municipality that is derived from the application of the tax at a rate of more than seven percent of the price paid for a room in a hotel.

Computation of the Franchise Tax—H.B. 4765

by Representative Oliveira et al.—Senate Sponsor: Senator Dan Patrick et al.

In 2008, business payments under the revised Texas franchise tax almost doubled; however, this increase was not spread equally across the business community. Businesses between \$1 million and \$10 million in total revenue bore the brunt of this tax increase. This sector of the economy paid an increase of almost 50 percent. As the Texas economy gradually works its way out of a recession, small businesses need some tax relief. This bill:

Provides that a taxable entity is not required to pay any tax and is not considered to owe any tax for a period if the amount of tax computed for the taxable entity is less than \$1,000, or the amount of the taxable entity's total revenue from its entire business is less than or equal to \$1 million, rather than \$300,000, or the amount determined under Section 171.006 (Adjustment of Eligibility for No Tax Due, Discounts, and Compensation Deduction) per 12-month period on which margin is based.

Provides that a taxable entity is not required to pay any tax and is not considered to owe any tax for a period if the amount of tax computed for the taxable entity is less than \$1,000, or the amount of the taxable entity's total revenue from its entire business is less than or equal to \$600,000, rather than \$300,000, or the amount determined under Section 171.006 per 12-month period on which margin is based.

Provides that a taxable entity is entitled to a discount of the tax imposed under this chapter that the taxable entity is required to pay after determining its taxable margin under Section 171.101 (Determination of Taxable Margin), applying the appropriate rate of the tax under Section 171.002(a) (relating to providing that the section is subject to certain other sections except as provided by subsection (b)) or (b) (relating to providing that subject to certain sections, the rate of the franchise tax is 0.5 percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade), and subtracting any other allowable credits for a taxable entity for which the total revenue from its entire business is greater than \$600,000, rather than equal to or greater than \$500,000, but less than \$700,000, the taxable entity is entitled to a discount of 40 percent; and for a taxable entity for which the total revenue from its entire business is equal to or greater than \$700,000 but less than \$900,000, the taxable entity is entitled to a discount of 20 percent.

Provides that each section takes effect only if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211 (Tax Imposed on Tobacco Products Other Than Cigars), Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law.

Basis for Tax Appraisals and Consolidated Appraisal Review Boards—H.J.R. 36

by Representative Otto et al.—Senate Sponsor: Senators Williams and Dan Patrick

Currently, the Texas Constitution provides that no property of any kind shall be assessed for property taxes at greater than fair market cash value, nor shall any board of equalization of any governmental or political subdivision or taxing district fix the value of any property for tax purposes at more than fair cash value. However, residence homesteads throughout the state have experienced increasing appraisal values, in some instances more than 200 percent in one year, due to an appraisal practice known as "highest and best use." This widely accepted standard allows homes to be valued based on the property's potential use rather than the property's current use. This practice creates the potential for skyrocketing appraisal values for residence homesteads located near new commercial development. Also, the prerequisites to serve on an appraisal review board are minimal, and the number of people familiar with the appraisal of property is limited in any one county. The appraisal review process would benefit from drawing on a greater pool of talent. This resolution:

Proposes a constitutional amendment authorizing the legislature by general law to provide for the taxation of real property that is the residence homestead of the property owner solely on the basis of the property's value as a residence homestead, regardless of whether the residential use of the property by the owner is considered to be the highest and best use of the property; and by general law, to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations.

Prohibits members of a board of equalization, rather than the board of equalization, from being elected officials of a county, rather than the county, or of the governing body of a taxing unit.

Requires that administrative and judicial enforcement of uniform standards and procedures for appraisal of property for ad valorem tax purposes be prescribed by general law.

Prohibition of Ad Valorem Tax Increases in Certain Municipalities—S.B. 252

by Senators Estes and Hinojosa—House Sponsor: Representative Hardcastle

Many rural economies significantly benefit from tourism because small towns possess a certain character, including main streets, that many tourists want to experience. Towns are able to revitalize their main streets through participation in either the Main Street Improvement Program or the Downtown Revitalization Program, administered by the Texas Department of Agriculture (TDA). These programs offer communities the ability to improve infrastructure for the purpose of bringing new life to the town but do not require all buildings to be revitalized. Many building owners are not interested because their property taxes will increase to a level not supported by their business. This bill:

Authorizes the governing body of a municipality with a population of less than 10,000 to call an election to authorize it to enter into an agreement with the owner of real property in or adjacent to an area of the municipality that has been approved for funding under Downtown Revitalization or Main Street Improvements programs administered by TDA to limit property taxes imposed by any political subdivision.

Provides that a limitation, if approved and subject to the terms and conditions of the agreement, would prohibit tax increases for the first five tax years after the tax year in which the agreement is executed.

Provides that such a limitation expires on the earlier of January 1 of the sixth tax year following the tax year in which the agreement was executed or January 1 of the first tax year in which the owner of the property at the time the agreement was executed ceases to own the property.

Provides that the validity of an agreement is not affected by, and an agreement does not expire because of, a demographic change that increases the municipality's population to 10,000 or more.

Exemption of Volunteer Firefighters from Certain Motor Fuel Taxes—S.B. 254

by Senator Estes et al.—House Sponsor: Representative Pena

Volunteer fire departments (departments) comprise the sole source of fire protection in many areas of the state, especially rural Texas. Raising the funds necessary to operate is a struggle for these departments. Exemption from the motor fuels tax would greatly benefit the departments and help assure their continued ability to provide services.

There are currently several exemptions from the motor fuels tax, including fuels sold to the federal government and public school districts under certain conditions, fuel exported by a licensed supplier to certain states or to a foreign country, fuels moved by truck or rail between licensed suppliers in transport between terminal racks, and fuels delivered or sold to a storage facility of a licensed aviation fuel dealer. Also exempt are dyed diesel fuel and other types of fuel including certain mixtures of taxable diesel fuel blended with water, fuel ethanol, or bio-diesel and clearly identified as such upon sale or use, dyed kerosene delivered to a storage facility at a retail business for non-highway use, or diesel fuel used by certain commercial motor vehicles to transport hazardous materials or passengers on a fixed route and schedule. This bill:

Authorizes a state tax exemption for gasoline and diesel fuel sold to a department for its exclusive use.

Authorizes an eligible department that paid tax on the purchase of gasoline or diesel fuel to file a claim with the comptroller of public accounts for a refund of the tax paid.

Return of Certain Ad Valorem Tax Bills—S.B. 562

by Senator Jackson—House Sponsor: Representative Bonnen

Under current law, tax bills are not able to be forwarded at their initial mailing. This bill:

Authorizes the tax assessor-collector to request the return of a tax bill that is not deliverable as addressed through certain methods.

Dissolution of Crime Control and Prevention Districts—S.B. 575

by Senators Wendy Davis and Nelson—House Sponsor: Representative Shelton

Current law provides that a crime control and prevention district (CCPD) dissolves on the fifth anniversary of its establishment, otherwise a continuation election is required to be held prior to the expiration of a current term to allow a CCPD to continue to operate and impose taxes. However, since the enactment of this statute, uniform election dates have been reduced from four per year to two per year, causing some CCPDs to have dissolution dates that do not align with uniform election dates. Additionally, CCPDs and fire control, prevention, and emergency medical services districts impose certain taxes within the district to fund operations. This bill:

Extends the dissolution date of a crime control and prevention district to the first uniform election date that occurs after the fifth anniversary of the date the district began to levy taxes for district purposes if the district has not held a continuation or dissolution referendum or on the first uniform election date that occurs after the fifth anniversary of the date of the most recent continuation or dissolution referendum.

Authorizes a CCPD or a fire control, prevention, and emergency medical services district located in all or part of a municipality that imposes a sales and use tax on residential gas and electricity services to also impose a tax on such services.

Requires the comptroller of public accounts, on request of a municipality, to provide information relating to the amount of tax paid to the municipality by each person doing business in an area that is part of a CCPD or a fire control, prevention, and emergency medical services district.

Local Sales and Use Tax Information—S.B. 636

by Senator Seliger—House Sponsor: Representative Rose

Currently, only municipalities can request certain sales tax revenue information from the comptroller of public accounts (comptroller). This bill:

Provides that Section 151.027 (Confidentiality of Tax Information), Tax Code, does not prohibit the delivery of information to a municipality, county, or other local government entity in accordance with certain sections.

Defines "destination management services," "qualified destination management company," "qualified destination management services contract," "place of business of the retailer," "kiosk," and "other local governmental entity."

Provides that a qualified destination management company is the consumer of taxable items sold or otherwise provided under a qualified destination management services contract, and the destination management services provided under the contract are not considered taxable services.

Requires a taxable entity that is a qualified destination management company to exclude from its total revenue, to a certain extent, payments made to other persons to provide services, labor, or materials in connection with the provision of destination management services.

Provides that if a retailer has more than one place of business in this state, each sale of each taxable item by the retailer is consummated at the place of business of the retailer in this state where the retailer first receives the order, provided that the order is placed in person by the purchaser or lessee of the taxable item at the place of business of the retailer in this state where the retailer first receives the order.

Provides that if the retailer has more than one place of business in this state and Subsection (c) (relating to the consummation of the sale of taxable items in places of business where the retailer first receives the order) does not apply, the sale is consummated at the place of business of the retailer in this state from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

Provides that Subsection (c) does not apply if the taxable item is shipped or delivered from a warehouse that meets certain conditions, including a warehouse that is the place of business of the retailer and is in relation to which the retailer has an economic development agreement with a municipality or county; and the place of business of the retailer at which the retailer first receives the order in the manner described by Subsection (c) is a retail outlet identified as being served by the warehouse on January 1, 2009.

Requires a municipality or county that has entered into the described economic development agreement, not later than September 1, 2009, to send to the comptroller information prescribed by the comptroller relating to the agreement that identifies each warehouse subject to the agreement and each retail outlet that was served by that warehouse.

Requires the comptroller on request, except as otherwise provided, to provide certain information to a municipality, taxing entity, county, or other local governmental entity that has adopted a tax under Chapter 321 (Municipal Sales and Use Tax Act), Chapter 322 (Sales and Use Taxes for Special Purpose Taxing Authorities), or Chapter 323 (County Sales and Use Tax Act), Tax Code.

Requires the comptroller to provide the information as an aggregate total for all persons doing business in the defined area without disclosing individual tax payments.

Requires the comptroller, if the request for information involves not more than three persons doing business in the defined area, to refuse to provide the information to the municipality, taxing entity, county, or other local governmental entity unless the comptroller receives permission from each of the persons allowing the comptroller to provide the information to the entity as requested.

Requires that a separate request for information under this section be made in writing by the municipality's mayor or chief administrative officer, the governing body of the taxing entity, a county judge, or the governing body of the other local governmental entity each year.

Provides that information received by a municipality, taxing entity, county, or other local governmental entity under this section is confidential, is not open to public inspection, and is authorized to be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the entity.

Authorizes the information received by a municipality, taxing entity, county, or other local governmental entity to be used by the entity to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

Authorizes the comptroller to set and collect from a municipality, taxing entity, county, or other local governmental entity reasonable fees to cover the expense of compiling and providing information under this section.

Provides that notwithstanding Chapter 551 (Open Meetings), Government Code, the governing body of a municipality, the governing body of a taxing entity, the commissioners court of a county, or the governing body of the other local governmental entity is not required to confer with one or more employees or a third party in an open meeting to receive information or question the employees or third party regarding the information received by the entity.

Determining the Value of Property for Ad Valorem Tax Purposes—S.B. 771

by Senator Williams—House Sponsor: Representative Otto

Currently, appraisal districts do not have a standard for setting values on properties following a year in which the property's market value was determined to be lower than the initial value through the protest process. Even though a lower value was achieved through protest, in the subsequent year, a property owner often receives an initial value that is the same or higher than the initial valuation that was the subject of the preceding year's protest, even if there has been little or no change to the property since the previous year's value had been finally established. As a result, property owners are forced to protest the value, often resulting in litigation, and each year having to present the same issues as presented the previous year with substantially the same outcome. Appraisal districts are required to consider characteristics of a property in valuing it but are not required to use property-specific data, such as income and expense statements, in establishing the value. The Tax Code provides guidance for appraising property under the income and the cost methods but provides no such guidance for using the market data comparison. The result is that appraisals vary significantly across appraisal districts and property owners are faced with an inconsistent and unpredictable system for determining their property value for property tax purposes. This bill:

Provides that the appraised value of the property is considered to be the appraised value of the property for that tax year.

Prohibits the chief appraiser, in the following tax year, from increasing the appraised value of the property by a percentage that exceeds the average percentage increase in the final appraised value of the property for the preceding five years unless the increase is reasonably supported by certain substantial evidence.

Requires that all available evidence specific to the value of the property be taken into account in determining its market value.

Provides that agricultural land in a governor-declared drought is to be considered agricultural land during that period, even if the land remains out of agricultural production.

Provides that a property owner may appeal an appraisal review board order to binding arbitration as an alternative to filing an appeal under Section 42.01 (Right of Appeal by Property Owner), Tax Code.

Allows for a property owner to appeal an appraisal review board order through binding arbitration if the property qualifies as the owner's residence homestead.

Adds a licensed attorney as a person who may initially qualify as an arbitrator.

Provides that changes made by the bill only apply to the appraisal of property for a tax year beginning on or after the effective date of the bill.

Refunds of Overpayments or Erroneous Payments of Ad Valorem Taxes—S.B. 798

by Senator Carona—House Sponsor: Representative Jim Jackson

Taxing units are often asked for refunds of property taxes because of a taxpayer's overpayment or erroneous payment of taxes. Processing the refunds can be time-consuming and burdensome for taxing units, especially for taxing units with large numbers of taxpayers.

Section 31.11 (Refunds of Overpayments or Erroneous Payment), Tax Code, governs refunds of overpayments and erroneous payments of property taxes. Under that section, a taxpayer seeking a refund is required to submit an application for the refund with the tax collector for the taxing unit. The taxpayer will be entitled to a refund after the auditor for the taxing unit has made a determination that the taxpayer is entitled to a refund because of an overpayment or erroneous payment of taxes.

Section 11.438 (Late Application for Veteran's Organization Exemption), Tax Code, governs the process for making an application for a property tax exemption for a veteran's organization when the exemption was obtained after taxes are paid. Section 11.438 requires the organization to apply for the refund of taxes paid without the benefit of an exemption. This bill:

Requires that, if a taxpayer applies to the collector of a taxing unit for a refund of an overpayment or erroneous payment of taxes, the collector for the unit determines that the payment was erroneous or excessive, and the auditor for the unit agrees with the collector's determination, the collector refund the amount of the excessive or erroneous payment from available current tax collections or from funds appropriated by the unit for making refunds.

Requires that an application for a refund, except as provided by Section 31.11(c-1) (relating to an application on a form prescribed by the comptroller by rule), Tax Code, be made within three years after the date of the payment or the taxpayer waives the right to the refund.

Authorizes a taxpayer to apply for a refund by filing an application on a form prescribed by the comptroller by rule, or a written request that includes information sufficient to enable the collector and the auditor for the taxing unit and, if applicable, the governing body of the taxing unit to determine whether the taxpayer is entitled to the refund.

Provides that notwithstanding the other provisions of this section, in the case of an overpayment or erroneous payment of taxes submitted by a taxpayer to a collector who collects taxes for one or more taxing units one of which is a county with a population of two million or more, a taxpayer is not required to apply to the collector for the refund to be entitled to receive the refund if the amount of the refund is at least \$5 but does not exceed \$5,000, and the collector is not required to comply with Section 31.11(g) (relating to a written notice of the amount of the overpayment accompanied by a refund application form), Tax Code, unless the amount of the payment exceeds by more than \$5,000 the amount of taxes owed for a tax year to a taxing unit for which the collector collects taxes.

Provides that the organization is eligible to apply for a refund of the tax, penalties, and interest paid as provided by Section 31.11 (Refunds of Overpayments or Erroneous Payment), Tax Code, if the tax and related penalties and interest on the property for a tax year for which an exemption is granted under this section were paid under protest.

Provides that the deadline prescribed by Section 31.11(c), Tax Code, for applying for a refund does not apply to a refund under this section.

Appraisal for Ad Valorem Tax Purposes of Wildlife Management Land—S.B. 801

by Senators Hegar and Zaffirini—House Sponsor: Representative Homer

Currently, property owners who want to manage their land for wildlife use must first convert to agricultural use and subsequently convert to wildlife use. This is an unnecessary and costly requirement, in that it would most likely require removal of trees and brush. Once the property owner qualifies for agricultural use and converts to wildlife use, the management of wildlife may require replanting the native trees and brush that had just been removed. This bill:

Redefines "wildlife management."

Provides that the category of land that qualifies under Section 23.51(7) (relating to the definition of "wildlife management"), Tax Code, is the category of the land under this subchapter or Subchapter E (Appraisal of Timber Land), as applicable, before the wildlife-management use began.

Provides that land is not eligible for appraisal as provided by this subchapter if the land is located inside the corporate limits of an incorporated city or town, unless the land has been devoted principally to agricultural use or to production of timber or forest products continuously for the preceding five years, and is used for wildlife management.

Electronic Filing and Communications of Protests in Appraisal Districts—S.B. 873

by Senator Harris et al.—House Sponsor: Representatives Otto and Bohac

Currently, the first step in contesting the appraised value of a residential homestead is to file a protest. The appraisal district makes forms available for this purpose, but an individual can also fax or mail a letter contesting the appraised value. The letter only needs to identify the individual as the owner, identify the subject property, and state that the owner disagrees with the appraised value and wishes to protest. Next, the appraisal district will schedule an "informal hearing." This can take months from the time that the protest was first filed. The purpose of the hearing is to give the owner the opportunity to present evidence that the appraised value is too high.

Employing technology could increase productivity, reduce errors, and save tax dollars all while providing improved service and convenience to the taxpayer. High volumes of protests could be handled by the appraisal district in virtual space as opposed to the costly process of opening mail, preparing documents, and keying data. Property owners could avoid the time and expense of coming in for a protest hearing and the number of days needed to hold hearings could be reduced. This bill:

Requires each appraisal district to implement a system that allows the owner of a property that for the current tax year has been granted a residence homestead exemption under Section 11.13 (Residence Homestead), Tax Code, in connection with the property, to electronically file a notice of protest under Section 41.41(a)(1) or (2) (regarding the specific actions a property owner is entitled to protest before the appraisal review board), Tax Code, with the appraisal review board; receive and review comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing before the appraisal review board; receive, as applicable, a settlement offer from the district to correct the appraisal records by changing the market value and, if applicable, the appraised value of the property to the value as redetermined by the district, or a notice from the district that a settlement offer will not be made; and accept or reject a settlement offer received from the appraisal district under Section 41.415(3)(A) (regarding a settlement offer from the district to correct the appraisal records), Tax Code.

Requires the chief appraiser, with each notice sent under Section 25.19 (Notice of Appraised Value), Tax Code, to an eligible property owner, to include information about the system required by this section, including instructions for accessing and using the system.

Requires that a notice of protest filed electronically include, at a minimum, a statement as to whether the protest is brought under Section 41.41(a)(1) or under Section 41.41(a)(2), a statement of the property owner's good faith estimate of the value of the property, and an electronic mail address that the district is authorized to communicate electronically with the property owner in connection with the protest.

Requires the chief appraiser, if the property owner accepts a settlement offer made by the appraisal district, to enter the settlement in the appraisal records as an agreement made under Section 1.111(e) (regarding an agreement between a property owner or the owner's agent and the chief appraiser being final), Tax Code.

Requires the appraisal review board, if the property owner rejects a settlement offer, to hear and determine the property owner's protest in the manner otherwise provided by Subchapter C (Taxpayer Protest) and Subchapter D (Administrative Provisions), Tax Code.

Provides that an appraisal district is not required to make the system required by this section available to an owner of a residence homestead located in an area in which the chief appraiser determines that the factors affecting the market value of real property are unusually complex.

Provides that an electronic mail address provided by a property owner to an appraisal district under Section 41.415(d)(3) (regarding the inclusion of an electronic mail address with a notice of protest), Tax Code, is confidential and is prohibited from being disclosed by the district.

Provides that an appraisal district established for a county having a population of 250,000 or less is not required to implement the system required before January 1, 2013. This provision expires January 1, 2014.

Exemption from Sales and Use Tax for Certain Aircraft—S.B. 958

by Senator Hegar—House Sponsor: Representative Heflin

In 1981, the 67th Legislature enacted legislation exempting certain agricultural items from taxation. These items included horses, mules, and work animals; animals produced for human consumption or to be sold in the regular

course of business; chemicals used on farms and ranches; fertilizer; machinery used on farms and ranches; and machinery used in the processing, packing, or marketing of agricultural products. Additional amendments to the statute were passed during the Second Called Session; 68th Legislature; 70th Legislature; 73rd Legislature; and the 74th Legislature. This bill:

Exempts certain agricultural aircraft operations from sales and use taxes on machinery and equipment used for certain agricultural purposes.

Administration of and Exemptions from the Gas Production Tax—S.B. 997

by Senator Duncan—House Sponsor: Representative Oliveira

During the 74th Legislature, Regular Session, 1995, the Tax Code was amended to change the due date of the gas production tax to on or before the 20th day of the second month following the month of production. However, the corresponding producer's report due date was not amended to coincide with the tax due date. This bill:

Amends the Tax Code to ensure that the due dates for the gas production tax and the producer's report submitted to the comptroller of public accounts coincide.

Deletes the exemption described by Section 202.059 (Exemption for Hydrocarbons From Terra Wells), Tax Code, from the list of exemptions that apply to certain taxes and are subject to certain required certifications and approvals.

Authority of a School District to Mail a Tax Bill—S.B. 1024

by Senator Ogden—House Sponsor: Representative Fred Brown

Recent legislative changes in the calendar requirements for school districts with regard to rollback tax elections force most districts to hold these elections on the general election date in November. For school districts in counties that offer a split payment option to their taxpayers it is extremely difficult if not impossible to hold a rollback election in November. This bill:

Requires the assessor for the school, if, after tax bills for the school district have been mailed, a proposition to approve the school district's adopted tax rate is not approved by the voters of the district at an election held under this section, on subsequent adoption of a new tax rate by the governing body of the district, to prepare and mail corrected tax bills.

Requires the assessor to include with each bill a brief explanation of the reason for and effect of the corrected bill.

Provides that the date on which the taxes become delinquent for the year is extended by a number of days equal to the number of days between the date the first tax bills were sent and the date the corrected tax bills were sent.

Requires the school district, if a property owner pays taxes calculated using the originally adopted tax rate of the school district and the proposition to approve the adopted tax rate is not approved by voters, to refund the difference between the amount of taxes paid and the amount due under the subsequently adopted rate if the difference between the amount of taxes paid and the amount due under the subsequent rate is \$1 or more.

Requires the district, if the difference between the amount of taxes paid and the amount due under the subsequent rate is less than \$1, to refund the difference on request of the taxpayer.

Requires that an application for a refund of less than \$1 be made within 90 days after the date the refund becomes due or the taxpayer forfeits the right to the refund.

Refunds and Credits for Certain Sales and Use Taxes—S.B. 1199

by Senator Ogden—House Sponsor: Representative Fred Brown

Currently, when an organization qualified for a sales tax exemption first files for the exemption, it can seek a refund of the sales taxes paid for the prior four years if it would have been exempt had it filed for an exemption during that time. Local governments are charged back for the local sales taxes that are refunded to the taxpayer, which can prove costly to those governments that have expended the funds and not budgeted for the refund. The same is true if the Office of the Comptroller of Public Accounts (comptroller) audits a taxpayer and determines that the taxpayer was entitled to seek an exemption but failed to do so. This bill:

Provides that for purposes of obtaining a refund of or claiming a credit for taxes paid under Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, an organization is not considered exempted from the taxes imposed by Chapter 151, Tax Code, before the earlier of the date the organization applied for the exemption with the comptroller, or the date of assessment of the organization's tax liability by the comptroller as a result of an audit, as applicable.

Entitles a seller to a credit or reimbursement equal to the amount of sales tax refunded to a purchaser when the purchaser receives a full or partial refund of the sales price of a returned taxable item.

Forfeiture of Remedy for Nonpayment of Ad Valorem Taxes—S.B. 1359

by Senator Seliger—House Sponsor: Representative Rose

Chapter 42 (Judicial Review), Tax Code, establishes the process for judicial review of an order by an appraisal review board. A property owner who appeals a decision of an appraisal review board is required to pay each taxing unit that imposes taxes against the property, prior to the delinquency date, the undisputed amount of taxes due or the amount of taxes due pursuant to the appraisal review board order. A property owner who fails to pay taxes prior to the delinquency date forfeits the right to appeal.

A party to an appeal may file a motion to determine whether a property owner has complied with the prepayment requirements. Upon such motion, the court must hold a hearing to determine compliance. In most situations, taxing units are not a party to the appeal and consequently, do not receive notice of the hearing. This bill:

Authorizes a taxing unit to intervene in an appeal for the limited purpose of determining whether a property owner has complied with Section 42.08 (Forfeiture of Remedy For Nonpayment of Taxes), Tax Code.

Entitles a taxing unit to notice of a hearing.

Taxation of Motor Fuels—S.B. 1495

by Senator Williams—House Sponsor: Representative Oliveira

Currently, certain transactions are allowed to be made tax-free within the bulk terminal/transfer system if the proper license is held. Eliminating the requirement to obtain a license to only conduct transactions within the bulk terminal/transfer system will reduce the number of license holders required to report transactions where there is no tax due. This does not affect the collection of taxes. Tax is collected when the motor fuel is removed from the bulk terminal/transfer system. The current signed statement limitations have been burdensome on industry. The signed statement limitations have been determined by the number of gallons that a normal fuel transport truck can deliver. Industry has changed and transport capacities have been increased. This bill:

Provides guidance on state motor fuel tax issues.

Makes certain parties liable for the collection or payment of motor fuels taxes.

Modifies requirements on shipping documents used in motor-fuel transport.

Provides mechanisms for addressing motor fuel tax fraud and establishes civil and criminal penalties.

Allows for the sale of up to 25,000 gallons of dyed diesel fuel to be tax exempt under certain circumstances.

Taxes Imposed by Certain Park and Recreation Districts—S.B. 1638

by Senator Wentworth—House Sponsor: Representative Doug Miller

Current law authorizes a county that has river frontage on the Guadalupe and Comal rivers to establish a park and recreation district for all or part of the unincorporated area in the county to operate and maintain public parks, conserve natural resources, and improve the public welfare in the district. Such a district is authorized to impose certain taxes in the area. Several timeshare and rental properties have been established along the rivers, and there has been some controversy over who from these properties is required to pay the taxes imposed by the district. This bill:

Requires a managing entity of a timeshare property in a county with frontage on the Guadalupe River or Comal River to collect and remit to a park and recreation district, on a property owner's behalf, all district hotel occupancy taxes if the managing entity participates in the rental of the property by either advertising rental availability on behalf of the property owner or collecting rent on the property owner's behalf.

Authorizes a managing entity to certify to the district that it does not collect rent or advertise rental availability on behalf of its property owners, and provides that the certificate is final and binding as long as the certificate remains accurate.

Exempts from the district hotel occupancy tax an employee of the United States government conducting official business in the district or a person who is an evacuee due to an emergency during which the state has temporarily suspended collection of the state hotel occupancy tax.

Prohibits the district from taxing a transaction between a person and an interest operated by the United States in the district or a state park in the district.

Deferral of Gasoline and Diesel Fuel Taxes and Credits—S.B. 1782

by Senator Hinojosa—House Sponsor: Representative Keffer

H.B. 2458 (78th Legislature, Regular Session, 2003) moved the point of collection for motor fuels taxes from the distributor level to the supplier. The net effect was that motor fuels taxes are assessed when a distributor removes fuel from a fuel terminal. This change is commonly referred to as "back to the rack," where the point of collection moved to the rack where fuels are dispensed. Prior to this change, fuels taxes were assessed when a distributor made a taxable sale to an end user.

H.B. 2458 created a new chapter in the Tax Code, Chapter 162 (Motor Fuels Taxes), providing for the remittance and collection of motor fuels taxes. Many of the provisions in Chapter 162 were taken from Chapter 153 (Motor Fuel Taxes [*Repealed*]), where motor fuels tax law was previously found.

In the process of moving statutory provisions from Chapter 153 to Chapter 162, H.B. 2458 inadvertently included two different statutory provisions for addressing tax credits taken by a motor fuels supplier following a distributor's default

of motor fuels taxes. Specifically, identical provisions currently found in Sections 162.116(d) (relating to ratable application of payments or credits in reduction of a customer's account between motor fuels and other goods sold to the customer) and 162.217(d) (relating to ratable application of payments or credits in reduction of a customer's account between motor fuels and other goods sold to the customer), Tax Code, include a requirement that the tax resulting from the sale of motor fuels and other goods be apportioned. Because motor fuels are the only goods exchanged, these provisions are no longer applicable to the relationship between distributors and suppliers under Chapter 162. This bill:

Requires the supplier or permissive supplier, after requesting a credit under this section, to terminate the ability of the licensed distributor or licensed importer to defer the payment of gasoline tax or diesel fuel tax, to terminate the ability of the licensed distributor or licensed importer to defer the payment of gasoline tax or diesel fuel tax.

Prohibits the supplier or permissive supplier from reinstating the right of the licensed distributor or licensed importer to defer the payment of gasoline tax or diesel fuel tax until the first anniversary of the date the supplier or permissive supplier requested the credit, subject to certain limitations.

Authorizes a supplier or permissive supplier to reinstate the right of a licensed distributor or licensed importer to defer the payment of gasoline tax or diesel fuel tax before the prescribed date if the comptroller of public accounts determines that the supplier or permissive supplier erroneously requested the credit that resulted in the termination of the licensed distributor's or licensed importer's right to defer payment; or the licensed distributor or licensed importer failed to pay gasoline taxes or diesel fuel taxes due because of circumstances that may have been outside the distributor's or importer's control.

Provides that the supplier or permissive supplier is eligible to take the credit if the comptroller is notified of the default within 15 days after the default occurs.

Repeals Sections 162.116(d) (relating to ratable application of payments or credits in reduction of a customer's account between motor fuels and other goods sold to the customer) and 162.217(d) (relating to the requirement that all payments or credits in reduction of a customer's account be applied in a certain manner), Tax Code.

Authority of a School District to Impose Ad Valorem Taxes—S.B. 2274

by Senator Seliger—House Sponsor: Representative Chisum

Under current law, if a school district lowers its maintenance and operations tax rate and subsequently raises it to the level it was prior to the decrease, a rollback election is triggered. This is a disincentive for school districts to lower the maintenance and operations tax in order to increase the interest and sinking tax and retire bond debt. This bill:

Authorizes a school district to reduce its maintenance and operations tax rate and subsequently raise it to the amount it was prior to the decrease without triggering a rollback election.

Authorizes a school district to levy taxes in order to pay off bond debt early.

Ad Valorem Taxation Exemption and Charitable Organizations—S.B. 2442

by Senator Uresti—House Sponsor: Representative Gallego

The federal Javits-Wagner-O'Day Act requires federal agencies to procure certain goods and services from qualified nonprofit agencies for the blind and qualified nonprofit agencies for the severely handicapped. To qualify, nonprofit agencies must be operated in the interest of blind or severely handicapped individuals, and must employ blind or

severely handicapped individuals for at least 75 percent of the labor hours required to produce commodities or provide services to fulfill certain federal agency contracts.

Javits-Wagner-O'Day Act organizations operating in Texas compete with similar organizations in other states for a limited number of federal agency contracts, and many of the other states in which these organizations operate specifically exempt such organizations' property from taxation. This bill:

Allows Texas' Javits-Wagner-O'Day organizations to compete in order to provide classroom and on-site training, free on-site medical care, employment opportunities, and other support to blind and severely handicapped beneficiaries.

Requires a charitable organization to be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) (relating to certain criteria that grant charitable organizations an exemption) and (l) (relating to certain requirements for charitable organization providing support to elderly persons), engage exclusively in performing one or more of certain charitable functions.

Exempts real property owned by a charitable organization and leased to an institution of higher education, as defined by Section 61.003 (Definitions), Education Code, from taxation to the same extent as the property would be exempt if the property were owned by the institution.

Grace Period for Disabled Parking Placards—H.B. 400

by Representative Herrero—Senate Sponsor: Senator Hinojosa

Currently there is no grace period for a person cited for illegally parking a vehicle with an expired disabled parking placard by obtaining a valid placard to have the citation dismissed. However, there is a grace period for a person cited for an expired vehicle inspection certificate in which the person may remedy the defect and have the citation dismissed. If the person obtains a valid inspection certificate within 20 working days or before the person's first court appearance and the expired inspection certificate had not been expired for more than 60 days, the citation is dismissed. This bill:

Grants the same criterion for expired disabled parking placards as for an expired inspection certificate by requiring a court to dismiss a charge of unlawfully parking a vehicle in a space designated specifically for persons with disabilities if the vehicle displayed a disabled parking placard that was not valid as expired; the defendant remedies the defect by renewing the expired disabled parking placard within 20 working days from the date of the offense or before the defendant's first court appearance date, whichever is later; and the disabled parking placard has not been expired for more than 60 days.

Requires the court to assess an administrative fee not to exceed \$20 when the charge has been remedied.

Stipulates that a court is authorized to dismiss the charge if at the time of the offense the defendant's vehicle displays a disabled parking placard that has been expired for more than 60 days.

Army Specialist William Justin Byler Memorial Highway—H.B. 471

by Representative Hilderbran—Senate Sponsor: Senator Duncan

Army Specialist William Justin Byler was born in Ballinger, Texas, and graduated from Ballinger High School in 2000. In 2002, Justin enlisted in the U.S. Army and was last stationed at Fort Campbell, Kentucky. On October 31, 2005, Justin was killed in the line of duty while serving in Iraq. This bill:

Designates a segment of State Highway 158 in Runnels County as the Army Specialist William Justin Byler Memorial Highway.

Seatbelt Laws—H.B. 537

by Representative Berman et al.—Senate Sponsor: Senator Eltife

Under current law, a person commits an offense if the person operates a passenger vehicle equipped with safety belts and allows a child under the age of 17 who is not required to ride in a child safety seat to ride without being secured by a safety belt. The offense is a Class C misdemeanor punishable by a fine of \$100 to \$200. Similarly, there is no requirement to secure a child under the age of 17 with a safety belt if that child is riding in a van. Furthermore, there is no restriction on the age at which a person may ride as a passenger on a motorcycle. This bill:

Makes it an offense to allow a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under that law to ride in a passenger van designed to transport 15 or fewer passengers, including the driver, without securing the child individually by a safety belt, if the child is occupying a seat that is equipped with a safety belt.

Requires third-party transportation providers that contract with the state to have child safety seats when transporting a child to medical services under the Medical Transportation Program.

Prohibits an operator of a motorcycle from carrying another person on the motorcycle unless the person is at least five years of age.

Creates an offense (Class C misdemeanor) for an operator of a motorcycle carrying a person that is under the age of five. The fine is set at \$100 to \$200.

Stipulates that this provision applies only to motorcycles used on public roads and does not prohibit an operator from carrying a passenger younger than five seated in a sidecar attached to a motorcycle.

Provides that the offense of not wearing a safety belt applies if a person at least 15 years of age is occupying a seat that is equipped with a safety belt apply if the person is riding in any seat of a passenger vehicle, rather than the front seat.

Mandatory Provisions Regarding Child Transportation—H.B. 548

by Representative Pickett—Senate Sponsor: Senator Carona

According to the U.S. Department of Transportation, excessive speed caused or contributed to 31 percent of fatal accidents in 2007, resulting in the loss of more than 13,000 lives. Speeding is a problem because it reduces the driver's control over the vehicle and makes it harder to react in time to hazards. Higher speeds translate into greater force in a crash, raising the likelihood of serious injury or death. Section 545.420, Transportation Code, prohibits racing, drag racing, or any vehicle speed competition or contest involving a vehicle. Punishments for this offense range from a Class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000), depending on the circumstances surrounding the violation and what consequences resulted from the infraction. However, law enforcement officers are unable to charge racers unless they are caught in the act. This bill:

Requires a peace officer to require a motor vehicle used in the commission of an offense of racing on a highway that results in an accident with property damage or personal injury to be taken to the nearest licensed vehicle storage facility unless the vehicle is seized as evidence, in which case the vehicle may be taken to a storage facility as designated by the peace officer involved.

Requires the owner of the vehicle to be liable for all removal and storage fees incurred, and specifies that the owner is not entitled to take possession of the vehicle until those fees are paid.

Failure to Provide Evidence of Vehicle Financial Responsibility—H.B. 586

by Representative Naishtat—Senate Sponsor: Senator Carona

Section 601.262 (Duration of Impoundment), Transportation Code, currently provides that if a person is convicted of a "no-insurance" offense for a second or subsequent time the court must order the sheriff to impound the defendant's vehicle and the vehicle may not be released from impoundment unless the defendant provides evidence of financial responsibility covering a two-year period immediately following the date the defendant applies for the vehicle's release. Most insurance policies are written to cover a six-month period of time as opposed to a two-year time period. Many defendants have been unable to obtain the necessary insurance to allow for the release of the vehicle from impoundment. This bill:

Permits a defendant to provide evidence of insurability in increments of a period of not less than six months during the two-year period immediately following the date the defendant applies for release of a vehicle from impoundment.

Southern High-Speed Rail Compact—H.B. 646

by Representatives Hughes and Leibowitz—Senate Sponsor: Senator Eltife

United States Public Law No. 97-213, adopted in 1982, authorized the creation of the Southern High-Speed Rail Commission (commission), an interstate organization tasked with studying the feasibility of high-speed rail between southern states. The federal law originally authorized the states of Louisiana and Mississippi to join the commission, with the stipulation that any state contiguous to a member state could become a part of the compact, subject to the ratification of the legislature of each member state and the consent of the United States Congress. Shortly after the federal legislation passed, the Alabama legislature authorized that state to join the commission. This bill:

Authorizes the governor, on behalf of the state, to execute the Southern High-Speed Rail Compact, thereby allowing Texas to participate in the interstate commission that will assist in conducting a feasibility study regarding rapid rail service between the member states: Texas, Mississippi, Louisiana, and Alabama.

Repealing Jury of View—H.B. 768

by Representative Kolkhorst—Senate Sponsor: Senator Hegar

State law requires that a new road ordered by the commissioners court of a county be laid out by a jury of view consisting of five property owners appointed by the commissioners court. Jury of view is seen by some as an abuse of due process, and is an antiquated, anomalous, and archaic procedure left from the 1880s that has since been replaced by the due process guarantees contained in the eminent domain provisions of Chapter 21 (Eminent Domain), Property Code. This bill:

Repeals Section 251.054 (Laying Out New Roads by Jury of View), Transportation Code.

Foreign Commercial Vehicle Registration Exemptions—H.B. 782

by Representative Pickett—Senate Sponsor: Senator Carona

Under current law, foreign commercial vehicles operating in a border commercial zone are granted a full exemption from Texas vehicle registration laws if the vehicles are registered and licensed as required by the law of another country and that country provides a reciprocal exemption for commercial motor vehicles owned by residents of Texas. Within the border commercial zone, foreign commercial carriers domiciled in Mexico are primarily involved in drayage or transfer movements of commercial vehicles (mainly semi-trailers). Many of these carriers purchase trailers that are registered in another state of the United States. If that state has a reciprocity agreement with Texas, the vehicles do not have to be registered in Texas if they are owned by a nonresident.

H.B. 313, 80th Legislature, Regular Session, 2007, established the requirements for exemption from Texas registration for commercial vehicles operating along the Texas-Mexico border. H.B. 313 was enacted to rectify abuse of the North American Free Trade Agreement by individuals who buy a truck or trailer in another state and use it outside border commercial zones. The unintended consequence of this legislation required Mexican truck operators to obtain Texas registration plates every time they crossed into border commercial zones, even if they were not owners of the vehicle. This bill:

Requires a vehicle located in a border commercial zone to display a valid Texas registration if the vehicle is owned by a person who owns a leasing facility or a leasing terminal located in Texas and leases the vehicle to a foreign motor carrier.

Establishes that a valid reciprocity agreement between Texas and a Canadian province that exempts currently registered vehicles owned by nonresidents is effective in a border commercial zone.

Clarifies that the exemption for a foreign commercial motor vehicle operating in a border commercial zone from Texas vehicle registration laws applies if the vehicle is registered and licensed as required by the country in which the person who owns the vehicle is domiciled or is a citizen.

Interlocal Contract for Relief Highway Route for Certain Municipalities—H.B. 1255

by Representative Lewis—Senate Sponsor: Senator Seliger

Currently the City of Andrews is in need of relief highway routes to relieve truck traffic through the populated areas of the city but must have an interlocal contract to do so. This bill:

Authorizes the City of Andrews to enter into an interlocal contract with the county for the construction and maintenance of a relief highway route.

Designating State Highway as Preston Trail Highway—H.B. 1272

by Representative Phillips—Senate Sponsor: Senator Estes

Texas State Highway 289 runs north-south, beginning in downtown Dallas and terminating west of Sherman near the Texas-Oklahoma border. The highway is known for most of its length as Preston Road due to its proximity to the primary portion of the original Preston Trail.

Preston Trail was the north Texas portion of an ancient Indian trail extending from Mexico through central Texas all the way to what is now St. Louis, Missouri, and on to Ohio where the Shawnee Indians lived. Preston Trail became part of the first official Texas military road in 1839. This bill:

Designates State Highway 289 as the Preston Trail Highway.

"Save Our Beaches" Specialty License Plate—H.B. 1286

by Representative Eiland—Senate Sponsor: Senator Huffman

The coastal region ranks as Texas' second-most popular tourist attraction, generating an estimated \$7 billion a year. The coastal areas are a key tourist attraction. Additional financial resources are needed to maintain these areas and continue to attract tourism. The bill may supply financial assistance to this region in order to assist to clean, maintain, and protect our state beaches so that this area can facilitate the growth of the state's economy.

In addition to being an important economic resource, beaches provide habitat for numerous species of plants and animals. Beaches serve as breeding grounds for many species that do not otherwise live on the beach and as repositories for important links in the food chain. In this way, beaches support a rich web of life including worms, bivalves, and crustaceans. Beach erosion can, therefore, negatively impact an entire beach ecology by removing habitat. This bill:

Requires the Texas Department of Transportation to issue Save Our Beaches specialty license plates to fund the cleaning, maintaining, nourishing, and protecting of Texas beaches.

Marine Conservation Specialty License Plate—H.B. 1749

by Representatives Bonnen—Senate Sponsor: Senator Hegar

The original authorization for the marine conservation specialty license plate was included in S.B. 1355, 73rd Legislature, Regular Session, 1993, relating to specialty license plates for certain nonprofit organizations. The bill required the fees for these plates to be deposited to the credit of the state highway fund.

H.B. 2971, 78th Legislature, Regular Session, 2003, authorized revenue from specified specialty plates to be designated to certain special funds for the benefit of the organizations sponsoring the plates. The marine conservation specialty license plates, however, were not specifically included in this authorization and do not appear in Chapter 504 (Specialty License Plates), Transportation Code, with the other specialty license plates currently being issued by TxDOT. The revenue from the sale of these plates continues to be deposited into the highway fund. This bill:

Requires fees from the sale of marine conservation license plates to be deposited to the credit of an account in the treasury for use by the Texas Parks and Wildlife Department once TxDOT's administrative costs have been deducted.

Operating a Motor Vehicle Without a Valid Driver's License or Insurance—H.B. 2012

by Representative Vaught et al.—Senate Sponsor: Senator Carona

Currently, driving without insurance and without a valid driver's license is a Class C misdemeanor. In late 2008, three pedestrians were struck by a car and seriously injured after participating in a half marathon at White Rock Lake in Dallas. Although speed was not a factor, the driver lost control of the car before striking the individuals. After the accident, it was discovered that the driver was driving without a valid insurance card or a valid driver's license. This bill:

Enhances the penalty for the offense of operating a motor vehicle without a valid driver's license from a Class C misdemeanor to a Class B misdemeanor if it is shown at trial that the person was operating the motor vehicle in violation of the motor vehicle liability insurance requirement, and to a Class A misdemeanor if it is shown at trial that the person was operating the motor vehicle in violation of that requirement and caused or was at fault in a motor vehicle accident that resulted in serious bodily injury to or the death of another person.

Promotion of Toll Roads—H.B. 2142 [VETOED]

by Representatives McClendon and Menendez—Senate Sponsor: Senator Carona

Current law authorizes the Texas Department of Transportation (TxDOT) to engage in marketing, advertising, and other activities to promote the development and use of toll projects. However, during a review of TxDOT's systems, practices, and procedures in the sunset process, the Sunset Advisory Commission (SAC) adopted a recommendation to strengthen the lobbying prohibitions that apply to TxDOT and to prohibit the use of TxDOT money to influence the passage or defeat of a legislative measure. Activities to promote the development and use of toll projects are functionally equivalent to influencing the passage or defeat of legislation relating to toll roads and toll projects. SAC's report cited the implementation and design of the TxDOT's *Keep Texas Moving* campaign as a tolling and Trans-Texas Corridor outreach campaign, including a website, a newsletter, and radio, television, print, billboard, and Internet advertising. Several members of the legislature and the public questioned the use of state money for such a campaign. This bill:

Specifies that the authority of TxDOT to engage in marketing, advertising, or other activities is for providing information relating to the status of pending or ongoing toll projects, rather than for promoting the development and

use of toll projects, and that the authority to enter into necessary contracts or agreements is for procuring marketing, advertising, or informational, rather than other promotional, services from outside service providers.

Prohibits TxDOT from engaging in marketing, advertising, or other activities for the purpose of influencing public opinion about the use of toll roads or the use of tolls as a financial mechanism.

Payment of Vehicle Registration—H.B. 2186

by Representative Guillen—Senate Sponsor: Senator Huffman

Under Texas law, registered tax assessor-collectors are required to immediately certify returned payments for vehicle registration to law enforcement for action. This requirement does not allow time to contact the customer in order to correct the situation. In most cases, returned remittance can be redeemed with little effort and was simply the result of a mistake. This bill:

Requires a county tax assessor collector to certify to the sheriff or a constable or highway patrol officer the fact that the assessor-collector has received from a person a check or draft drawn against insufficient funds as payment of a vehicle registration fee after attempts to contact the person fail to result in the collection of payment and before the 30th day after the date the check or draft is returned unpaid, rather than immediately after the fact.

Adds to the certification requirements that the certification be accompanied by documentation of any attempt to contact the person and collect payment.

Designating a Structure of United States Highway 259—H.B. 2201

by Representative Hughes—Senate Sponsor: Senator Eltife

Texas State Trooper Todd Dylan Holmes of Gilmer, Texas, was killed in the line of duty on March 14, 2007, at the age of 29, only a few miles from his home. The overpass located on United States Highway 259 (U.S. Highway 259) intersecting State Highway 155 (SH 155) in Upshur County was included in Trooper Holmes' area of patrol. This bill:

Designates the structure on U.S. Highway 259 that passes over SH 155 in Upshur County as the Trooper Todd Dylan Holmes Memorial Overpass.

Public Transportation Advisory Committee Modification—H.B. 2219

by Representative Phillips—Senate Sponsor: Senator Williams

Currently, the public transportation advisory committee (committee) is composed of 11 individuals appointed by the Texas Transportation Commission and operates without oversight from the legislature. When the committee was created by H.B. 3588 during the 78th Legislature, Regular Session, 2003, the legislative intent was that the committee would be a legislative oversight board for the Texas Department of Transportation's public transportation functions. This bill returns oversight of the committee to the legislature to ensure that the commission is responsive to recommendations of the committee. This bill:

Establishes that the committee consists of nine, rather than 11, members and revises the committee's composition. Requires the governor, lieutenant governor, and the speaker of the House of Representatives to appoint committee members, rather than the Texas Transportation Commission, and requires the committee to reflect the diversity of the state.

Prohibits the first two members whose positions expire or become vacant from being replaced.

Designating TxDOT as Contracting Agent for Certain Airports—H.B. 2314

by Representative Gattis—Senate Sponsor: Senator Ogden

The Texas Department of Transportation (TxDOT) currently has the statutory authority to act as the agent for local governments in contracting for airport design, planning, and construction services in association with grants administered by TxDOT. TxDOT's aviation division has extensive knowledge and experience in contracting for such services. The division issues bids and proposals, makes awards, handles acquisitions, and performs all reporting duties in total compliance with federal grants requirements.

TxDOT's services were at one time offered to all general aviation and reliever airports. However, legal counsel for TxDOT has advised the division that it may only perform these services for local governments, thereby excluding other airports in Texas that also receive federal funding. Authorizing TxDOT to act as an agent to all airports receiving federal grants would permit TxDOT to ensure compliance with federal guidelines at these airports. This bill:

Adds provisions so that TxDOT can be the agent of a local government in contracting and supervising an airport also applicable to the designation of TxDOT as the agent of an owner of an eligible airport.

County Road Mapping—H.B. 2462

by Representative Keffer—Senate Sponsor: Senator Deuell

Current law authorizes the commissioners court of a county to adopt a proposed county road map and include in the map all roads in which the county claims a public interest. The law providing this authorization is set to expire on September 1, 2009. Several commissioners courts have initiated the adoption process, but will not have completed that process by the sunset date of the statute. This bill:

Specifies that provisions authorizing a county to clarify the existence of a public interest in a road by the adoption of a county road map apply only to a county that initiates or completes compliance with the provisions before September 1, 2011.

Designating Bankhead Highway as an Historic Highway—H.B. 2644

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

The Bankhead Highway was the first transcontinental auto road to be built across the southern United States. Its route stretches from Washington, D.C., to San Diego, California, and spans the breadth of Texas from Texarkana to El Paso. The Bankhead was created under the Wilson administration as part of the Federal Aid Road Act of 1916 to facilitate civilian auto travel and commerce across the South and to serve as an overland military deployment route in the event of an attack on the Pacific Coast.

The Bankhead was the primary East-West route across North Texas for several decades and was ultimately replaced as a through-route by modern interstate highways.

Other states have successfully converted sections of the Bankhead and its contemporaries into corridors for heritage tourism. This bill:

Designates the Bankhead Highway as a historic highway by the Texas Historical Commission (THC) and the Texas Department of Transportation (TxDOT).

Allows THC and TxDOT to pursue federal funds for this purpose, specifies that the historic designation of the Bankhead Highway is not a historic designation under federal law, and establishes that TxDOT is not required to construct or erect a marker unless a grant or donation of funds is made to cover the cost.

Towing Illegally Parked Vehicles from Residential Areas in Certain Municipalities—H.B. 2346

by Representative Thibaut—Senate Sponsor: Senator Ellis

Current law permits employees designated by a municipality to immobilize illegally parked vehicles and to remove an immobilized vehicle from a public roadway when the vehicle is illegally parked. Placing a vehicle on the immobilization list is a lengthy process; a vehicle must have multiple delinquent parking citations and the vehicle's owner must be given several written notices before a vehicle may be immobilized. Houston parking enforcement officers cannot currently remove illegally parked vehicles unless the vehicle has been immobilized or the police department authorizes the tow. Immobilizing the vehicle does not provide a true remedy, as the vehicles remain illegally parked. Additionally, the Houston Police Department is short-staffed and response time can be several hours, if at all. This bill:

Authorizes a municipality with a population of 1.9 million or more to authorize a designated employee to request the removal of a vehicle parked illegally in a tow-away zone in a residential area where on-street parking is regulated by ordinance.

Makes these provisions and provisions relating to the authority of a municipality to remove an immobilized vehicle inapplicable to a vehicle owned by an electric, gas, water, or telecommunications utility while the vehicle is parked for the purpose of work conducted on a facility of the utility that is located below, above, or adjacent to the street.

Power of Certain Freight Rail Districts —H.B. 2433

by Representative Wayne Smith—Senate Sponsor: Senator Williams

Currently, Texas law provides that freight rail districts created under Chapter 171, Transportation Code, can exercise the powers of an intermunicipal commuter rail district by specifying in the concurrent order or ordinance creating the district that those powers may be exercised by the district. However, the law governing intermunicipal commuter rail districts limits payments made by a local government to an intermunicipal rail district. The Gulf Coast Freight Rail District is having difficulty securing federal grants for the purpose of building a commuter rail district due to this limitation. In addition, the district cannot currently use money dedicated to it by local governments outside of the district though the project benefits the district. This bill:

Includes the powers related to a commuter rail facility and other types of passenger rail services, including intercity rail services.

Specifies that the limit on payments made by a local government for the financing of transportation infrastructure within the territory of the local government does not apply to a freight rail district that is exercising the powers of an intermunicipal commuter rail district as described above.

Authorizes such a district to use money paid to the district by a local government outside the territory of the local government if the money is used for a public purpose of the local government and to pledge money paid to the district by a local government to secure the payment of a district debt.

Management of TxDOT Funding—H.B. 2434*by Representative Wayne Smith—Senate Sponsor: Senator Williams*

Currently, Texas law requires that money appropriated or allocated by the United States for construction and maintenance of rail facilities in Texas be administered by the Texas Transportation Commission and spent only under the supervision of the Texas Department of Transportation (TxDOT). This bill:

Adds freight rail districts, intermunicipal commuter rail districts, and commuter rail districts to the entities to which the provision relating to the supervision by TxDOT of money appropriated or allocated by the federal government for the construction and maintenance of rail facilities in Texas does not apply.

County Assessor-Collector Refusing to Register Vehicles—H.B. 2530*by Representative Harless—Senate Sponsor: Senator Wendy Davis*

Under provisions relating to the enforcement of traffic laws by a photographic traffic signal enforcement system (red light camera), a county tax assessor-collector may refuse to register a vehicle for which a red light camera violation has been issued if the fine is unpaid. When such a vehicle is sold, the new owner has no way of knowing about the hidden lien on the vehicle created by those provisions.

Licensed motor vehicle dealers in Texas are charged by state law with handling the transfer of vehicles they sell to consumers. Should a dealer take a vehicle in trade or purchase a vehicle at the third or a subsequent sale of the vehicle and then attempt to file the transfer of title and registration application, the dealer could be forced to pay a fine for a prior owner in order to meet the state requirement to transfer title and registration to the retail purchaser. Preventing dealer transfers from being blocked by the indebtedness of a prior owner would allow the transfer to take place and state sales tax to be collected. This bill:

Specifies that the authority of a county assessor-collector or the Texas Department of Transportation to refuse to register a motor vehicle alleged to have an outstanding payment due for a red light camera violation does not apply to the registration of a motor vehicle by a vehicle dealer.

Registration and Operation of Certain Vehicles—H.B. 2553*by Representative Hilderbran—Senate Sponsor: Senator Wendy Davis*

The United States Congress enacted the Consumer Product Safety Improvement Act of 2008 that sets forth a mandatory consumer product safety standard for all-terrain vehicles. After the standard takes effect, it will be unlawful for any manufacturer or distributor to import or distribute in commerce in the United States any new assembled or unassembled all-terrain vehicle unless such standards are met.

In addition, many of the references to off-highway vehicles in Texas statute are outmoded and outdated. In recent years, consumer demand has prompted off-highway vehicles manufacturers to develop innovative machines that have both recreational and utility purposes, as well as standard accessories that increase versatility and safety. The new factory-added features and accessories are calculated in vehicles' legal weight and dimensions, resulting in new production models that do not conform to statutory definitions. This bill:

Authorizes a recreational off-highway vehicle registered by the state, a county, or a municipality to be operated on a public or private beach in the same manner as a golf cart if the operator of the vehicle has a driver's license in the operator's possession.

Prohibits TxDOT from registering a golf cart for operation on a public highway.

Authorizes the governing body of a municipality to allow the operation of a golf cart on a public highway within the corporate boundaries of the municipality if the posted speed limit on the public highway is not more than 35 miles per hour and the golf cart has the equipment specified by the bill.

Makes provisions relating to all-terrain vehicles also apply to recreational off-highway vehicles.

Requires that, if the vehicle is equipped with seatbelts, seatbelts be worn by a person operating, riding, or being carried on an off-highway vehicle on public property and specifies that the safety equipment requirement does not apply to a motor vehicle that is registered by TxDOT for use on a public highway unless the vehicle is an all-terrain vehicle.

Makes the following provisions effective September 1, 2011:

- Making the fee for registration of a motorcycle also apply to the registration of a moped and establishes registration fees for passenger cars, buses, commercial motor vehicles, truck-tractors, and trailers based on the vehicle's gross weight over, at, or under 6,000 pounds, rather than the vehicle's model year or gross weight and tire equipment.
- Establishing separate provisions for the issuance of replacement license plates and replacement registration insignia and sets the fee for both at \$6, plus an additional fee of \$1 for services related to the titling of vehicles.
- Authorizing a person to use license plates that were issued in Texas in the same year as the model year of a classic motor vehicle if the plates are approved for the vehicle before January 1, 2011.
- Providing that there is no fee for issuance of specialty license plates for classic motor vehicles, travel trailers, cotton vehicles, forestry vehicles, tow trucks, and vehicles carrying mobile amateur radio equipment, and reduces the fee for issuance of license plates for golf carts.
- Authorizing TxDOT to require a nonrefundable design fee for the redesign of an existing specialty license plate at the request of a sponsor.

Authority of a Gas Corporation to Use a Public Right-of-Way—H.B. 2572

by Representative Gonzalez Toureilles—Senate Sponsor: Senator Mike Jackson

In recent years, there has been an increasing focus on how certain entities are allowed to utilize public rights-of-way. In some instances, an entity is granted the right to use public rights-of-way in several statutes that use different language to describe the entity's rights in the public rights-of-way. This leads to confusion and potentially to disputes and litigation.

Sections 181.005 (Authority to Lay and Maintain Lines) and 181.022 (Authority to Lay and Maintain Gas Facility), Utilities Code, are the two primary statutes governing the use of public rights-of-way by gas utilities and gas corporations. Section 181.022 specifically authorizes a gas utility to lay its pipelines under public rights-of-way while Section 181.005 only authorizes pipelines to be placed over and across public rights-of-way. Although pipelines are occasionally installed over and across streets, highways, and streams, they are most commonly installed under streets, highways, and streams. Sections 111.020 (Pipeline on Public Stream or Highway), 111.021 (Pipeline under Railroad, Street Railroad, or Canal), and 111.022 (Right to Use Street or Alley in City or Town), Natural Resources Code, authorize common carrier pipelines of various commodities to lay their facilities under a variety of public rights-of-way. Gas corporations should have the same clarity in the statutes as common carriers have. This bill:

Authorizes a gas corporation to lay and maintain lines along and under a road, railroad, canal or stream, or municipal street or alley.

Makes a gas corporation's authority to use public rights-of-way contingent on compliance with certain federal regulations and state agency rules and on the restoration of the right-of-way to its former condition of usefulness.

Provides that a gas corporation's authority to lay and maintain lines over, under, and across a municipal street or alley is subject to payment of compensation.

Sets forth the matters a gas corporation must consider in determining the route of a pipeline within a municipality.

Permits the Texas Department of Transportation to require the owner or operator of a pipeline to relocate the pipeline at the expense of the owner or operator if the pipeline is located on a right-of-way of the state highway system and at the expense of the state if the pipeline is located on property in which the owner or operator has a private interest or if the pipeline is owned or operated by a gas utility as defined by the Utilities Code or a common carrier as defined by the Natural Resources Code.

Designating Historic Roads and Highways—H.B. 2642

by Representative Kent et al.—Senate Sponsor: Senator Carona

Texas' historic roads and highways are vital cultural resources, but these routes are being lost and forgotten in Texas' contemporary landscape. Texas lacks a coherent program to designate historic roads and highways and has no program to promote them as corridors for heritage tourism. The Texas Historical Commission (THC) manages heritage tourism programs through the heritage trails program. The state's heritage trails are driving loops that connect points of historic or scenic interest in 10 designated heritage trail regions across Texas. There are also several historic routes in Texas that have been designated independent of the heritage trails program, including the Chisolm Trail and the Old San Antonio Road. Currently, there is no clear method for incorporating these routes into the existing regional framework, or for designating or introducing other historic roads to the system. This bill:

Establishes a program for the designation of Texas historic roads and highways by THC and the Texas Department of Transportation (TxDOT).

Provides that a historic designation of a road or highway under such a program is not a historic designation under federal law, allows THC and TxDOT to pursue federal funds for the program, and establishes that TxDOT is not required to construct or erect a marker for a designation unless a grant or donation of funds is made to cover the cost.

Municipalities Altering Speed Limits—H.B. 2682

by Representative Alvarado et al.—Senate Sponsor: Senator Wentworth

Current law allows municipalities to lower residential speed limits within an urban district under the prima facie limit of 30 mph when the roadway is 35 feet or less in width and does not prohibit parking on one or both sides.

The current design codes of many municipalities require new urban district roadways to be a minimum of 42 feet. As other municipalities adopt these standards, no new roadways within a municipality would be permitted to lower the prima facie limit to less than 30 mph. Additionally, many older roadways found within a city that would meet the maximum size standard of the legislation would likewise be disqualified based upon parking restrictions. This bill:

Removes the condition that the highway be 35 feet or less in width and a highway along which vehicular parking is not prohibited on one or both sides of the highway, in relation to a municipality's authority to declare a speed limit of not less than 25 miles per hour for a highway or part of a highway in the municipality that is not a part of the state highway system.

Specifies that the authority applies only to a two-lane, undivided highway or part of a highway.

Establishes certain reporting and publication requirements for the governing body of a municipality that declares a lower speed limit on such a highway.

Professional Firefighters License Plate—H.B. 2854

by Representatives Hughes and Harper-Brown—Senate Sponsor: Senator Deuell

Under current law, the fee for the issuance of specialty license plates is set at \$30. For each fee collected, \$8 is directed to the Texas Department of Transportation (TxDOT) for its administrative costs, and the remainder is deposited into the specialty license plate fund if the sponsor of the specialty plate nominated a state agency to receive the funds, or into the state highway fund if the specialty plate does not have a sponsor.

Prior to 2003, the law directed proceeds from the issuance of professional firefighter specialty license plates to emergency relief for professional firefighters and scholarships for their dependents. However, when the 78th Legislature recodified the Transportation Code, that provision was removed and TxDOT became the sole recipient of funds derived from the issuance of professional firefighter specialty plates. This bill:

Authorizes the issuance of professional firefighter license plates to qualified firefighters and provides that fees from the sale of the plates, after deduction of the TxDOT's administrative costs, are to be used to support the activities of an organization of professional firefighters located in Texas that provides emergency relief and college scholarship funds to the professional firefighters and their dependents.

Notifying Recreational Vehicle Owners of State Requirements—H.B. 2918

by Representatives McReynolds—Senate Sponsor: Senator Nichols

Under current law, motor homes or towable recreational vehicles (RVs) with a total gross weight rating (TGWR) greater than 4,500 pounds are required to be annually inspected at an inspection station. Many Texans who purchase these towable RVs are not aware of these requirements. This bill:

Requires a dealer that sells or exchanges a motor home or a towable recreational vehicle subject to compulsory inspection requirements to notify the buyer in writing at the time of the sale or exchange that the motor vehicle is subject to the requirements.

Electronic Transmission of Car Rental Information for Toll Payment—H.B. 2983

by Representative Phillips—Senate Sponsor: Senator Hegar

Texas law provides that the liability for a toll violation is appropriately passed to the renter of a motor vehicle who committed the offense. Notices of toll violations are sent by tolling authorities to the registered owners of the rented vehicles. The owners then provide rental information to the tolling authorities. Current law requires the rental information to include the license plate number of the rented vehicle, the name and address of the renter, and the driver's license number of the renter. Such records are subject to inspection by any police officer or the state.

The increase in the number of toll roads has led to an increase in the number of violations and amount of rental information that must be transmitted to tolling authorities. Tolling authorities and rental car companies have adapted their information technology practices to share rental information electronically, drastically reducing the amount of employee processing time, wasted paper, storage, handling, and shipping costs required to transmit rental

information in writing. Electronic information exchange is faster, more accurate, and greatly reduces the time and expense of producing records and extracting or manually processing them in paper form. This bill:

Provides an exception to liability for the payment of both the proper toll and an administrative fee, as applicable, if the registered owner provides to TxDOT electronic data, other than a photocopy or scan of a rental or lease contract, that contains the rental information required by law covering the vehicle on the date of the event as an alternative to the copy of the contract document that the lessor of a vehicle may provide in the event of nonpayment of the proper toll.

Authorizes a motor vehicle lessor to provide the various tolling authorities with required vehicle rental information electronically as an alternative to written information in connection with the payment of tolls by the vehicle lessee.

Specifies that the electronic data provided to Texas Department of Transportation (TxDOT) must be in a format agreed on by TxDOT and the vehicle lessor.

Establishes that such data is prima facie evidence that a defendant was the lessee of the vehicle when the event of nonpayment occurred.

Operation of Commercial Vehicles—H.B. 2985

by Representative Phillips et al.—Senate Sponsor: Senator Carona

Texas has experienced several fatal passenger bus accidents, including an accident in August, 2008, when a commercial passenger bus carrying members of the Vietnamese Martyrs Church of Houston crashed in Sherman, Texas, killing 17 people. The investigation into the Sherman accident raised several issues about the registration and operation of commercial passenger buses, including the ability of a company to continue intrastate operations after the company's registration to operate interstate has been revoked by the Federal Motor Carrier Safety Administration. This bill:

Requires an application for a certificate of title filed by the owner or lessee of a foreign commercial motor vehicle to be accompanied by a copy of the applicable federal declaration form required by the Federal Motor Carrier Safety Administration (FMCSA) in connection with the importation of a motor vehicle or motor vehicle equipment subject to the federal motor vehicle safety, bumper, and theft prevention standards.

Adds the submission of such a form to the requirements for a foreign commercial vehicle to obtain a temporary permit in lieu of registration, and adds a valid identification number issued to the motor carrier by or under the authority of FMCSA to the items a motor carrier registration application must include.

Requires the Texas Department of Transportation (TxDOT) to revoke or deny a motor carrier registration issued to a for-hire motor carrier of passengers if the motor carrier is required to register with FMCSA and the federal registration is denied, revoked, suspended, or otherwise terminated.

Authorizes TxDOT to issue a cease and desist order to prevent a violation of the motor carrier registration law and protect the public health and safety.

Requires TxDOT to adopt rules by March 1, 2010, to provide for the issuance to a motor carrier of an identification number authorized by FMCSA.

Coordinated County Transportation Authority—H.B. 3070

by Representative Solomons—Senate Sponsor: Senator Nelson

The 77th Texas Legislature enacted legislation that provided for the creation of a coordinated county transportation authority by a county adjacent to a county with a population of more than one million. Denton County has created such an authority in an effort to offer transportation alternatives to its region and alleviate traffic congestion and pollution. This bill:

Specifies that an election to obtain voter approval of a coordinated county transportation authority's proposed issuance of bonds secured by a pledge of sales tax revenue and having a maturity of five years or longer, must be held in the municipalities in which the authority has been authorized to impose a sales and use tax.

Removes the condition that the proposition be approved in accordance with provisions established for the authorization of a tax levy by the authority, and exempts the issuance of refunding bonds or bonds for the creation or funding of self-insurance or retirement or pension fund reserves from the election and voter approval requirements above.

Provides that the authority's authorization to mortgage any part of the public transportation system to secure the payment of its bonds applies regardless of when the part of the system is acquired.

Authorizes an authority to issue obligations and enter into credit agreements.

Validates any act or proceeding of a coordinated county transportation authority as of the date it occurred, except an act or proceeding that was a misdemeanor or felony offense at the time of occurrence.

Obstruction of Streets by Certain Municipalities—H.B. 3082

by Representative Thibaut—Senate Sponsor: Senator Dan Patrick

Issues have arisen in some neighborhoods of Houston where proposed street obstruction projects have not been presented to the affected communities for examination. These residents have not been given the opportunity to voice their opinions in a public hearing and these proposals are not being voted on by the city council. This bill:

Requires the governing body of a municipality with a population of 1.9 million or more, before the municipality may install a traffic-calming measure, to publish sufficient notice to receive and consider public comments from residents within one-half mile of the proposed measure, to hold a public meeting before implementation of the measure on request of affected residents, and, if the measure involves the closure of a street to motor vehicular traffic, to hold a public hearing on the issue of the closure and approve the closure by a majority vote.

Handicap Parking Spaces—H.B. 3095

by Representative Harless—Senate Sponsor: Senator Watson

Chapter 681, Transportation Code, governs privileged parking, including parking for an individual with a disability, as defined in law. That chapter requires the Texas Department of Transportation to issue a two-sided parking placard with the international symbol of access. During the interim following the 80th Legislature, Regular Session, 2007, Speaker Tom Craddick directed the House Committee on Transportation to review Texas' disabled parking statutes.

The committee made recommendations for changes in disabled parking designations, penalties for illegal use of disabled parking placards, and additional persons authorized to seize disabled parking placards. This bill:

Establishes that a white-on-blue-shield disabled parking placard is issued to a person with a permanent disability, rather than a mobility disability described by law, and a white-on-red-shield disabled parking placard is issued to a person with a temporary disability, rather than any other permanent or temporary disability.

Specifies that the law requiring an application for a disabled parking placard to be accompanied by a fee of \$5 applies if the application is for a temporary placard.

Establishes that parking spaces or areas designated for the exclusive use of vehicles transporting persons with disabilities may be used by vehicles displaying a white-on-blue-shield disabled parking placard, license plates issued to persons with disabilities, or a white-on-red-shield disabled parking placard and removes requirements for assigning designated parking for the exclusive use of vehicles displaying those placards or license plates on certain property.

Removes the offense of parking a vehicle displaying a white-on-red-shield disabled parking placard in a space designated for the exclusive use of vehicles displaying a white-on-blue-shield placard.

Enhances the penalties for an offense relating to misuse of parking spaces or placards for persons with disabilities as follows:

- first offense--a fine of not less than \$500 or more than \$750;
- second offense--a fine of not less than \$550 or more than \$800 and 10 hours of community service;
- third offense--a fine of not less than \$550 or more than \$800 and not less than 20 or more than 30 hours of community service;
- fourth offense--a fine of not less than \$800 or more than \$1,100 and 50 hours of community service; and
- fifth offense--a fine of \$1,250 and 50 hours of community service.

Recreational Boating Safety—H.B. 3108

by Representative Parker—Senate Sponsor: Senator Harris

Since 2004, boating fatalities in Texas have risen from 36 a year to 59 a year, while incidences of injury accidents rose from 146 to 181. Additionally, from calendar year 2007 to 2008, the number of boating while intoxicated offenses rose by 23 percent. This bill:

Creates an advisory panel on recreational boating safety and provides for the appointment, composition, and reimbursement of members of the panel.

Commercial Fleet Vehicle Registration—H.B. 3433

by Representatives Menendez and Pickett—Senate Sponsor: Senators Watson and Uresti

Currently, a company with a fleet of motor vehicles in Texas is required to register the vehicles annually. The annual acquisition and distribution of plates, stickers, and registration cards is time consuming and costly. Companies with fleets of thousands of motor vehicles find themselves performing renewals on a monthly basis throughout the calendar year. This bill:

Repeals provisions relating to consolidated registration of fleet vehicles and replace them with provisions relating to extended registration of commercial fleet vehicles.

Requires the Texas Department of Transportation (TxDOT) to develop and implement a system of registration to allow a business entity that owns a commercial fleet of at least 25 nonapportioned motor vehicles to register the

vehicles for an extended registration period of not less than one year or more than eight years, as determined by the owner.

Sets forth the required fees, including a one-time license plate manufacturing fee.

Authorizes a license plate to include the name or logo of the business entity that owns the vehicle.

Requires TxDOT, if a vehicle registered under these provisions has a gross weight in excess of 10,000 pounds, to also issue a registration card for the vehicle.

Requires TxDOT to adopt rules, including rules on suspension from the program for failure to comply, not later than January 1, 2010.

Requires TxDOT and the counties to consider, in their budgeting processes, any temporary increases and resulting decreases in revenue that will result from these provisions.

Exempts a vehicle purchased by a commercial fleet buyer who is a full-service deputy assessor-collector as prescribed by the bill from the law requiring a vehicle dealer to apply for the registration and title of a vehicle sold by the dealer.

Operation of Certain Three-Wheeled Vehicles—H.B. 3599

by Representative Fred Brown—Senate Sponsor: Senator Ellis

A new breed of hybrid vehicles is emerging in the United States due to consumer interest in fuel-efficient and clean-fuel vehicles, and some of these vehicles fall under the definition of a motorcycle rather than an automobile because they have three wheels instead of four. However, these roadworthy vehicles are more similar to automobiles than motorcycles in regard to safety features, such as enclosed cabs, steering wheels, seat belts, and windshields. Regardless of these safety features and because these vehicles are officially classified as motorcycles, their drivers are currently required to obtain a Class M motorcycle driver's license, which entails learning to drive a 2-wheeled motorcycle and taking a driver's test on a motorcycle. While these vehicles share some similarities to a motorcycle, the three wheels give the driver more stability than a motorcycle, and the cab is fully enclosed, like most automobiles. This bill:

Provides a definition for a motorcycle that is an enclosed three-wheeled passenger vehicle and incorporates Federal Motor Vehicle Safety Standards into that definition to ensure adequate safety features.

Authorizes drivers of these vehicles to operate them with a Class C driver's license, clarifies current law that drivers and riders of these vehicles are not required to wear helmets, and ensures that enclosed three-wheeled vehicles as described in the bill join traditional motorcycles in having the use of preferential lanes.

Certain Monetary Charges on a Motor Vehicle Installment Agreement—H.B. 3621

by Representative Solomons—Senate Sponsor: Senator Carona

Section 348.006, Finance Code, outlines the regulations for the principal balance under a retail installment contract for a motor vehicle and optional documentary fees that may accompany the motor vehicle sale. The documentary fee can be charged for services rendered for or on behalf of the buyer in preparing, handling, and processing documents relating to the motor vehicle and to the closing of the retail installment transaction. Under current law, the documentary fee is limited to \$50 for a motor vehicle retail installment contract or a reasonable amount agreed to by the seller and buyer for a heavy commercial vehicle retail installment contract. The buyer's order and retail

installment contract must include the statement of the amount of the documentary fee and a conspicuously placed notice of the documentary fee close to where the fee is disclosed. The notice outlines that the documentary fee is a voluntary fee for document handling and may not exceed \$50 for a motor vehicle contract or a reasonable amount agreed to by parties for a heavy commercial vehicle contract. This bill:

Removes the \$50 cap on the documentary fee for documentary services relating to a motor vehicle retail installment contract and instead prohibits the fee from exceeding a reasonable amount for the documentary services agreed to by the retail seller and retail buyer or, for a commercial vehicle retail installment contract, from exceeding an amount agreed to in writing by the retail seller and buyer.

Requires a retail seller to post a prescribed documentary fee notice so that it is clearly visible in each place where a vehicle sale is finalized.

Requires a retail seller, before increasing the maximum amount of the retail seller's documentary fee, to notify the consumer credit commissioner of the maximum amount that the seller intends to charge.

Authorizes the consumer credit commissioner to review the amount of a documentary fee for reasonableness and, if the commissioner determines that a fee is not reasonable, to require a reduction in or suspension of the fee.

Authorizes the Finance Commission of Texas to adopt rules, including rules relating to the standards for a reasonableness determination or disclosures, to enforce provisions relating to the documentary fee.

Safety Belt Requirements for the Transportation of Solid Waste—H.B. 3638

by Representative Hughes—Senate Sponsor: Senator Wendy Davis

Currently, a person whose official job duties require frequent entry and exit from a vehicle is exempted from having to wear a seatbelt while performing his job. These jobs include United States Postal Service employees, utility company employees (meter reading), and newspaper delivery personnel.

Recently, a solid waste company employee was ticketed for failing to fasten his seatbelt while driving a solid waste truck through a neighborhood picking up trash at the curb. After further investigation, it was found that this has happened on several occasions. The job duties of solid waste pickup employees require frequent stops and repeated entry and exit from the vehicle, in many cases much more than those jobs currently exempt under the law. This bill:

Adds, as a defense to prosecution of an offense relating to the use of safety belts, that the person is the operator of or passenger in a vehicle used exclusively to transport solid waste and performing duties that require frequent entry into and exit from the vehicle.

Powers and Duties of a Navigation District Port Authority—H.B. 3785

by Representative Callegari—Senate Sponsor: Senator Ellis

Many port authority and navigation district employees do not have financial assistance to help them recover from catastrophic events. Additionally, many of the contract and procurement regulations during an emergency lack clarity and effectiveness.

Current law requires local officials to follow contract and purchasing procurement procedures that are vague. Furthermore, employees who work for port authorities and navigation districts can accrue sick leave and vacation time but they cannot receive assistance following catastrophic events. This bill:

Authorizes the navigation and canal commission or executive director of a navigation district to establish a program in the district to allow an employee to voluntarily transfer time earned by the employee as sick leave or vacation leave to a district employee catastrophic assistance fund.

Authorizes an employee, on approval by the administrator, to contribute not less than one day or more than 10 days of the employee's combined accrued sick and vacation leave time to the fund in a fiscal year.

Requires the administrator to credit the fund with a dollar amount equivalent to the employee's hourly salary multiplied by the number of hours contributed by the employee.

Establishes that an employee may be eligible for a transfer of money from the fund, not to exceed \$5,000, if the employee has suffered unreimbursed losses or expenses because of a catastrophic event.

Authorizes the commission or executive director of a navigation district to adopt rules and prescribe procedures and forms relating to operation of the fund.

Adds provisions that relate to the law authorizing certain officials and representatives of a navigation district or port authority to make routine purchases or contracts in an amount not to exceed \$25,000.

Specifies that provisions governing a contract award apply to contracts valued at more than the amount authorized under that law.

Requires a district or port authority to comply with the Professional Services Procurement Act in procuring professional services.

Revises certain procedures of a navigation district or port authority relating to the execution of a contract with the United States and the selection of a contractor for construction services.

Designating a Portion of United States Highway 59 for Trooper Scott Burns—H.B. 3800

by Representative Frost—Senate Sponsor: Senator Eltife

On April 29, 2008, the people of Cass and Marion counties learned of the untimely death of Department of Public Safety Trooper Scott Burns. Trooper Burns, a native of the area, was stationed in Jefferson, Texas, when he was shot by the criminal he was pursuing.

Citizens in the area sought public recognition of the contributions of Trooper Burns to the safety and well-being of the community. Since Trooper Burns spent much of his time patrolling the roads and highways of the area, the community felt a portion of local United States Highway 59 should be designated as the Trooper Scott Burns Memorial Highway. The proposed segment runs from Linden, where Trooper Burns lived with his young family, to Jefferson where he was stationed at the time of his death.

Citizens throughout northeast Texas raised the funds required by the Texas Department of Transportation to place a marker at each end of the 15-mile segment. This bill:

Designates the 15-mile segment of U.S. Highway 59 between Linden, Texas, and Jefferson, Texas, as the Trooper Scott Burns Memorial Highway.

Specialty License Plate for Cancer—H.B. 4064

by Representative Gonzalez Toureilles—Senate Sponsor: Senator Hinojosa

Currently, when a motor vehicle is registered, the owner is entitled to a set of general-issue license plates. Alternatively, the owner may apply for a set of specialty license plates featuring a wide variety of designs. Some of these plates are generally available to the public, some are available only to certain persons, and others are available only for certain vehicles. This bill:

Requires the Texas Department of Transportation (TxDOT) to issue specialty license plates to raise awareness of cancer of unknown primary origin.

Requires the license plates to include the words "A Fine Cause for Unknown Cancer" and to be designed in consultation with the Orange Grove Family Career and Community Leaders of America.

Requires fee revenue, after deduction of TxDOT's administrative costs, to be deposited to the credit of the cancer prevention and research fund established by state law.

Honorable Hilary B. Doran Transportation Building—H.B. 4311

by Representative Gallego—Senate Sponsor: Senator Uresti

The bill honors the service of one of Val Verde County's most esteemed public officials, the honorable Hilary B. Doran, by designating the office of the area engineer for the Texas Department of Transportation located in Val Verde County as the Honorable Hilary B. Doran Transportation Building.

In addition to the designation of the Honorable Hilary B. Doran Transportation Building, Loop 79 in Val Verde County is being constructed and at this time no name has been designated for the loop. This bill:

Designates the building in which the Texas Department of Transportation office of the area engineer for Val Verde County is located as the Honorable Hilary B. Doran Transportation Building.

Requires designation of the name of Loop 79 in that county to be made by the Val Verde County Commissioners Court.

"Welcome to Texas" Signs and Texas Flags at Ports-of-Entry—H.B. 4465

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

Many states have welcome signs to designate the state boundary on highways entering the state. Current Texas law mandates that similar welcome signs be placed on the borders of Texas to welcome people driving into the state. There is no current Texas law that requires the Texas Department of Transportation to erect a Texas flag at an official international port-of-entry. This bill:

Requires the Texas Department of Transportation (TxDOT) to erect a "Welcome to Texas" sign to designate the state boundary on an interstate highway or a state highway entering Texas and specifies the contents of such a sign.

Requires TxDOT to erect and maintain a Texas flag to designate the state boundary at an appropriate location at or near each interstate or state highway originating at an official port-of-entry along an international border and specifies the size requirements for such a flag.

Awarding Contracts by Port and Harbor Facilities—H.B. 4493

by Representative Eiland—Senate Sponsor: Senator Huffman

Cities, counties, school districts, and a variety of other governmental entities throughout Texas are each responsible for purchasing items and services. Under current law, a municipality has a limit of \$50,000 for procurement through the sealed bid method. The bill attempts to bring the competitive bidding level for port and harbor facilities operated by cities under Chapter 54 (Harbor and Port Facilities in Certain Municipalities), Transportation Code, up to the same level as that required for other types of city facilities. This bill:

Authorizes, except as otherwise provided by the law governing harbor and port facilities in certain municipalities, the board of trustees of a facility located in a municipality to which that law applies to award a contract involving the expenditure of more than \$50,000, rather than more than \$25,000, only by competitive bidding.

Permits for Oversize and Overweight Vehicles—H.B. 4594

by Representative Eiland—Senate Sponsor: Senator Williams

Recently, some city police officers have been patrolling state highways in neighboring counties and ticketing overweight tractor trailers in the neighboring county. The individual responsible for the ticket is required to pay the ticket in the county in which the officer issuing the ticket serves. Because these counties share a small portion of the city, city police that issue tickets in the county not containing the majority of the city cause that county to lose revenue. This bill:

Clarifies the portion of roads on which an oversize or overweight vehicle with a permit issued by Chambers County is authorized to transport cargo.

Penalties for Illegally Parking in a Handicap Space—S.B. 52

by Senator Zaffirini—House Sponsor: Representative Coleman

Surveys conducted in major Texas cities indicate that between 30 and 65 percent of vehicles parked at meters or in accessible parking spots designated for persons with disabilities at any given time are illegally parked. This not only inconveniences persons with disabilities, but also has the potential to result in harm to such persons. This bill:

Enhances the penalty for a subsequent offense relating to misuse of parking spaces or placards for persons with disabilities as follows:

- first offense--retains current law of a fine of not less than \$250 or more than \$500.
- second offense--a fine of not less than \$500 or more than \$800 and 10 hours of community service.
- third offense--a fine of not less than \$550 or more than \$800 and 20 hours of community service.
- fourth offense--a fine of not less than \$800 or more than \$1,100 and 30 hours of community service.
- fifth offense--a fine of \$1,250 and 50 hours of community service.

Authorizes a peace officer to seize a disabled parking placard if the peace officer determines that the placard does not contain the first four digits of the driver's license number or personal identification certificate number and the initials of the person operating the vehicle or a person being transported by the vehicle.

Requires a peace officer to submit each seized parking placard to the Texas Department of Transportation not later than the fifth day after the seizure.

Securing a Child in a Motor Vehicle—S.B. 61*by Senator Zaffirini et al.—House Sponsor: Representative Vaught*

Section 545.412, Transportation Code, states that a person commits a misdemeanor offense punishable by a fine of at least \$100 and not more than \$200 by operating a passenger vehicle, transporting a child younger than five years of age and less than 36 inches in height, and not keeping the child secured in a child passenger safety seat during the vehicle's operation.

Each year nearly 1,600 children die in motor vehicle accidents and unrestrained children are more likely to be injured, to suffer more severe injuries, and to die in motor vehicle crashes than children who are restrained. This bill:

Provides that a person commits an offense by operating a passenger vehicle while transporting a child younger than five years of age and less than 36 inches in height who was not appropriately secured in a child passenger safety seat system.

Specifies that a person commits such an offense if the person transports a child who is younger than eight years of age, unless the child is taller than four feet, nine inches.

Makes the offense punishable by a fine of not more than \$25 for the first offense and not more than \$250 for a second or subsequent offense, rather than not less than \$100 or more than \$200.

Adds a 15-cent court cost on conviction of an offense of failing to secure a child passenger in a motor vehicle and sets forth provisions relating to the collection, deposit, and uses of the court cost.

Neighborhood Electric Vehicle Speed Limits—S.B. 129*by Senator Ellis—House Sponsor: Representative Coleman*

Currently, drivers of neighborhood electric vehicles (NEVs) are allowed to drive at a maximum speed of 25 miles per hour on roads with a posted speed limit of 35 miles per hour. As they produce no emissions, widespread usage of NEVs could potentially reduce auto emissions in urban and suburban areas. Presently, the following eight states allow NEVs to operate at speeds up to 35 miles per hour: Georgia, Kansas, Kentucky, Maine, Montana, Oklahoma, Tennessee, and Washington.

Additionally, a new type of hybrid vehicle is emerging in the United States due to consumer interest in fuel efficient and clean-fuel vehicles, and some of these vehicles fall under the definition of a motorcycle rather than an automobile because they have three wheels instead of four. Because such vehicles are officially classified as motorcycles, their drivers are currently required to obtain a Class M motorcycle driver's license, which entails learning to drive a two-wheeled motorcycle and taking a driver's test on a motorcycle. While such vehicles share some similarities to a motorcycle, the three wheels give the driver more stability than a motorcycle, and the cab is fully enclosed, like most automobiles. This bill:

Prohibits a neighborhood electric vehicle from being operated on a street or highway at a speed that exceeds the lesser of the posted speed limit or 35 miles per hour.

Increases the maximum posted speed limit from 35 to 45 miles per hour for a street or highway on which a neighborhood electric vehicle may be operated and that is the minimum posted speed limit for a road or street such a vehicle may cross at an intersection.

Defines "motorcycle" in provisions relating to driver's licenses to include an enclosed three-wheeled passenger vehicle that meets certain requirements and specifies that the law does not prohibit a license holder from operating such a vehicle.

Authorizes an enclosed three-wheeled passenger vehicle to be operated in a preferential lane that is not closed to all vehicular traffic.

Clarifies in provisions relating to protective headgear for motorcycle operators and passengers that the definition of "motorcycle" does not include a three-wheeled vehicle equipped with an occupant compartment, seat, and seat belt and designed to contain the operator in the occupant compartment.

Safe Routes to School Program Specialty License Plates—S.B. 161

by Senator Ellis—House Sponsor: Representative Harper-Brown

The 78th Legislature, Regular Session, 2005, enacted legislation authorizing the Texas Department of Transportation to issue the specialty license plates "God Bless Texas" and "God Bless America." The legislation required that the funds collected from the issuance of these license plates be deposited into the state highway fund and only be used for the Safe Routes to School Program (SRTS). By reallocating these specialty funds, the state may be able to leverage additional federal funding. This bill:

Requires that the proceeds from two specialty plates be deposited to the credit of the share the road account in the state treasury for use by the Texas Education Agency (TEA) to support SRTS.

Authorizes TEA to utilize these funds to secure funds available under federal matching programs for SRTS and obesity prevention.

Pledging Revenue of a Regional Transportation Authority for Bond Payments—S.B. 293

by Senator Carona—House Sponsor: Representative Alonzo

Currently, Dallas Area Rapid Transit (DART) has the authority to issue long-term debt secured by a pledge of sales tax revenues and by the non-tax revenues of its transportation system. However, an inconsistency in the statute also requires that the expenses and costs of operation constitute a "first lien" on the operating revenues of the transportation system. This "first lien" requirement is an impediment to DART's ability to issue bonds secured by all revenue sources since the market will not accept a "junior" or "subordinate" lien pledge of transportation system revenues as security for bonds.

DART needs to expand its bond-issuing capacity by pledging a portion of the revenues of its transportation system, such as all or a portion of its fare box revenues, to the payment of bonds. This bill:

Authorizes a regional transportation authority (RTA), in securing the payment of its bonds, to provide that a pledge of revenue realized from any tax that the authority may impose or a pledge of revenue of the public transportation system is a first lien or charge against that revenue.

Requires revenue in excess of amounts pledged under those provisions to be used to pay the expenses of operation and maintenance of a public transportation system, including salaries, labor, materials, and repairs necessary to provide efficient service and every other proper item of expense, and to fund operating reserves.

Deletes a provision providing that such operation and maintenance expenses are a first lien and charge against any revenue of a public transportation system that is encumbered under provisions relating to regional transportation authorities.

Establishing Railroad Quiet Zones—S.B. 316

by Senator Wentworth—House Sponsor: Representative Corte

The Federal Railroad Administration's Railroad Quiet Zone program aids governmental entities in reducing noise resulting from the routine sounding of train horns. A quiet zone is a railroad grade crossing where trains are prohibited from sounding their horns in order to decrease the noise level for nearby residential communities. Other safety measures must be in place in order for a train to silence its horns. This bill:

Authorize the governing body of a general-law municipality to enter into an interlocal contract with the surrounding municipality for the establishment of a railroad quiet zone located outside the boundaries of the general-law municipality that the governing body determines will benefit the general-law municipality.

Authorizes a general-law municipality to expend municipal funds and issue certificates of obligation or bonds to pay for expenses associated with such a railroad quiet zone, including expenses related to feasibility, engineering, and traffic studies and improvements related to the railroad quiet zone.

Provides that the provisions are only applicable to a Type A general-law municipality that is an enclave surrounded entirely by a municipality with a population of 1.1 million or more.

Boating While Intoxicated—S.B. 328

by Senator Carona—House Sponsor: Representative Phillips

Currently, individuals operating a watercraft who refuse to submit to a breath or blood alcohol test are subject to an administrative license revocation, which results in a driver's license suspension. However, if the person operating the watercraft submits to a breath or blood alcohol test which results in a blood alcohol content level of .08 or greater, current statute does not provide for an administrative license revocation. Furthermore, the offense of operating a watercraft under the influence of alcohol does not apply to minors. Current statute provides for stricter driver's license penalties for minors who commit the offense of driving under the influence, but it does not clearly state that stricter suspension penalties should still apply to the offender if they reach the age of 21 or over while awaiting trial. Consequently, many offenders are able to postpone trial until the age of 21, then receive the less harsh suspension penalty associated with the offense of driving while intoxicated. This bill:

Redesignates the offense of driving under the influence of alcohol by a minor as driving or operating a watercraft under the influence of alcohol by a minor, expands the conditions that constitute that offense, and includes an offense prohibiting the operation of a watercraft within the definition of "alcohol-related or drug-related enforcement contact."

Authorizes any magistrate who is a licensed Texas attorney to issue a search warrant to collect a blood specimen from a person who is arrested for a certain intoxication or alcohol offense and refuses to submit to a breath or blood alcohol test and increases from \$50 to \$100 the fee to reinstate a driver's license suspended due to the commission of a certain intoxication offense.

Includes the offense of driving while intoxicated with a child passenger in provisions relating to the requirements for the automatic suspension of a license, the suspension of a license of a person younger than 21 years of age, and the suspension of a license because of intoxication offenses.

Includes an offense of driving while intoxicated with a child passenger and boating while intoxicated in provisions relating to an administrative suspension of a driver's license for failure to pass a test for intoxication, modifies the circumstances under which a peace officer must require the taking of the specimen of a person's blood or breath, and amends certain provisions regarding liability for purposes of the taking of a blood specimen.

Funding the Breath Alcohol Testing Program—S.B. 333

by Senator Carona—House Sponsor: Representative Jim Jackson

Currently, no amount of driving while intoxicated (DWI) court fees and fines are retained by county courts to account for the costs of maintaining a breath alcohol testing program. The 78th Legislature, Regular Session, 2003, seeking to consolidate court fees, passed S.B. 502, which inadvertently removed the authorization needed by counties that do not use the services of a Texas Department of Public Safety technical supervisor forensic scientist, but instead employ their own certified scientist, to retain a portion of the breath alcohol fee. These scientists administer breath alcohol tests and prior to the passage of S.B. 502, the affected counties were able to retain \$22.50 of the \$30 fee assessed for DWI conviction court fees. These fees were used to help defray the costs of employing a certified scientist. This bill:

Requires the custodian of a municipal or county treasury in a county that maintains a certified breath alcohol testing program but does not use the services of a certified technical supervisor to retain \$22.50 of each court cost collected from the consolidated fees paid on conviction of an intoxication or alcoholic beverage offense other than a Class C misdemeanor to defray the costs of maintaining and supporting the program.

Repealing the Authority for TxDOT to Regulate Air Carriers—S.B. 334

by Senator Carona—Sponsor: Representative Pickett

Article 46c-6 of Vernon's Texas Civil Statutes provides the Texas Department of Transportation (TxDOT) with the power to regulate air carriers and requires TxDOT to adopt rules providing for the safety of air carriers. Under that article, an air carrier may not operate in the state unless the carrier has obtained a certificate of public convenience and necessity or a certificate of operating authority from TxDOT. Federal law preempts state's economic regulation of air carriers. This bill:

Repeals Section 6 (General Powers and Duties of Commission), Chapter 344 (H.B. 309), Acts of the 49th Legislature, Regular Session, 1945 (Article 46c-6, V.T.C.S.), related to granting and vesting the Texas Department of Transportation the right, power, and authority to promulgate and administer economic rules and regulations over air carriers.

Designating a Segment of IH-30 as Martin Luther King, Jr., Freeway—S.B. 337

by Senator Deuell—House Sponsor: Representative Flynn

The City of Greenville has requested that the portion of Interstate Highway 30 (IH-30) that runs through the city be designated as the Martin Luther King, Jr., Freeway. This action is supported by a resolution from the Greenville City Council. This bill:

Designates the part of IH-30 in the corporate limits of the city of Greenville, in Hunt County, as the Martin Luther King, Jr., Freeway.

Authority to Establish TxDOT Advisory Committees—S.B. 348*by Senator Carona—House Sponsor: Representative Pickett*

State statute expressly provides for the Texas Transportation Commission (TTC) to create several advisory committees but does not provide general authority to create such a committee. The attorney general has determined that a state agency may not create an advisory committee unless it is expressly authorized to do so by statute or has implied statutory authority to create an advisory committee for the purpose provided in the statute. This bill:

Authorizes TTC to establish advisory committees on any of the matters under its jurisdiction.

Requires TTC to determine the purpose, duties, and membership of each advisory committee.

TxDOT Powers Related to County Traffic Officers—S.B. 376*by Senator Carona—House Sponsor: Representative Phillips*

Section 701.006 (County Traffic Officers), Transportation Code, states that if a county traffic officer (officer) fails to enforce the law, a district engineer is authorized to report the officer to the commissioners court (court), where a hearing will determine the officer's fate. The court, on its own initiative or on the recommendation of the sheriff, can also report the officer. This bill:

Removes a provision authorizing a Texas Department of Transportation (TxDOT) district engineer to initiate disciplinary proceedings against a county traffic officer who fails to perform the officer's duty to enforce the law by submitting a written complaint to the commissioners court. The bill also repeals a provision requiring a TxDOT district engineer to advise a county traffic officer on enforcement of the state highway traffic laws.

Compensation for a Parking at a Public Transportation Facility—S.B. 405*by Senator Shapiro—House Sponsor: Representative McCall*

Currently, the Dallas Area Rapid Transit (DART) may charge for parking at its facilities as compensation for the use of the public transportation system. DART may also set fare rates according to a zone system or to another classification that the DART authority determines to be reasonable. This bill:

Includes the parking fees among the compensation for the use of the public transportation system that may be set according to a zone system or to another classification that a regional transportation authority determines to be reasonable.

Motor-Bus-Only Lane—S.B. 434 [VETOED]*by Senator Wentworth—House Sponsor: Representative Bolton*

Motor buses must use highway lanes to travel, even when those lanes are congested. This makes use of such mass transit less functional and appealing. The legislature reviewed the motor-bus-only lane program enacted in Minneapolis-St. Paul, during the legislative interim and recommended that the legislature consider such a program for willing mass transit authorities. This bill:

Requires the Texas Department of Transportation (TxDOT), in consultation with the Texas Department of Public Safety and in conjunction with the appropriate mass transit authorities and the municipalities served by those authorities, to establish and operate a public transit motor-bus-only lane pilot program for highways in Bexar, Denton,

El Paso, and Travis counties that are part of the state highway system and have shoulders of sufficient width and structural integrity for use as described below.

Establishes requirements for the program, including that it provide for the use by public transit motor buses of highway shoulders as a low-speed bypass of congested highway lanes when the speed of vehicles being operated on the main traveled part of the adjacent highways is 35 miles per hour or less.

Establishes that the maximum speed limit for a public transit motor bus operating on the shoulder of a highway designated as a public transit motor-bus-only lane is 35 miles per hour.

Requires TxDOT to initiate the public transit motor-bus-only lane pilot program as soon as practicable but not later than December 31, 2009, and prohibits TxDOT from establishing or operating a public transit motor-bus-only lane on a highway or toll facility maintained by a regional tollway authority without the authority's consent.

TxDOT Environmental Protection from Highway Pollution—S.B. 448

by Senator Carona—House Sponsor: Representative Pickett

The Texas Department of Transportation (TxDOT) can mitigate adverse environmental impacts resulting from the construction or maintenance of state highways by the transfer of interests in property rights. Since 1995, the legislature has increased the number and range of options for mitigation. The increased authority has allowed TxDOT to take less costly approaches to address the adverse impacts.

Currently TxDOT is not authorized to transfer an interest in real property that is less than a fee simple interest (such as an easement or lease agreement) to mitigate an adverse environmental impact resulting from construction, maintenance, or operation of a state highway or facility used in connection with the construction, maintenance, or operation of a state highway. This bill:

Specifies that the authority of TxDOT to take certain actions to mitigate an adverse environmental impact if authorized by an applicable regulatory authority is for an impact that is a direct result of the construction, improvement, or maintenance of a state highway or the construction, improvement, or maintenance of a facility used in connection with the construction, maintenance, or operation of a state highway, rather than a direct result of a state highway improvement project.

Provides that the actions TxDOT may take include transferring any interest in real property to an appropriate public agency or public entity, as authorized by the regulatory authority that requires the mitigation, with or without monetary consideration if the property is used or proposed to be used for mitigation purposes.

TxDOT Environmental Mitigation from Highway Pollution—S.B. 480

by Senator Carona—House Sponsor: Representative Wayne Smith

Increasingly, environmental covenants are being used as part of the environmental remediation process for sale of contaminated real property. An environmental covenant is a legal agreement which restricts activities on sites where some contamination remains in place. The Texas Department of Transportation (TxDOT) enters into environmental covenants with the goal of returning a site to a condition where it can be safely used for any purpose before the property can be sold. However, many environmental covenants are used when the real property is to be cleaned up to a level determined for intended use so that property for sale that is intended for commercial or industrial use has brought up the contamination standards of commercial property. Commercial and industrial contamination levels are higher than those allowed for residential properties. Current law requires TxDOT to bring all contaminated property up to residential contamination levels before sale, regardless of intended use. This bill:

Authorizes the Texas Transportation Commission (TTC) to enter into an environmental covenant for the purpose of subjecting real property in which TxDOT has an ownership interest to a plan or the performance of work for environmental remediation.

Sets forth certain requirements for the environmental covenant and the plan or performance of work.

Requires TTC to notify each owner of a property interest in the applicable property, each adjacent landowner, and each applicable local government of the proposal to enter into an environmental covenant at least 30 days before the commission considers an order to execute the covenant.

Safety Requirements for Railroad Contract Carriers—S.B. 481

by Senator Carona—House Sponsor: Representative Veasey

Contract carriers transport train operating crews to and from trains and between terminals. Railroads often save money by using the services of outside vendors as contract carriers. Generally, the vehicle a contract carrier uses is a small passenger van designed to transport eight or fewer passengers, including the driver. The contract carrier may transport crews between two local points or across long distances. In some cases, these trips may take several hours.

When contract carriers were first regulated in 1997, they were mostly small businesses with a regional scope. Since that time, large businesses have grown to provide these carrier services. As larger businesses, they need more regulation to ensure the safety of their passengers; nonetheless, current law does not designate mandatory drug and alcohol testing. This bill:

Amends provisions of the Transportation Code that apply only to a contract carrier that transports an operating employee of a railroad on a road or highway of Texas in a vehicle designed to carry 15 or fewer passengers.

Requires that the Texas Department of Public Safety (DPS) rules regulating the operation of such a contract carrier to require the contract carrier to perform alcohol and drug testing of vehicle operators on employment, on suspicion of alcohol or drug abuse, and periodically as determined by DPS and to require the contract carrier, at a minimum, to maintain liability insurance in the amount of \$1.5 million for each vehicle.

Requires DPS to inform contract carriers and railroad companies that employ contract carriers of the requirements of Texas statutes applicable to contract carriers.

Motor Vehicle Operation Near Vulnerable Road Users—S.B. 488 [VETOED]

by Senators Ellis et al.—House Sponsor: Representative Harper-Brown

Current law does not provide specific guidelines for a motor vehicle overtaking a vulnerable road user on a street or highway other than to put an inadequately defined "safe passing distance" between the vehicle and a bicyclist, nor does it provide uniform protection for a collective class of vulnerable road users. Approximately 40 percent of bicycle traffic crash fatalities in Texas occur due to unsafe passing by a motor vehicle. Current law does not provide for any penalty specific to the unsafe passing of a vulnerable road user. This bill:

Makes it an offense to operate a motor vehicle in the vicinity of a vulnerable road user as defined by the bill.

Requires an operator of a motor vehicle passing a vulnerable road user operating on a highway or street to vacate the lane in which the vulnerable road user is located or pass the vulnerable road user at a prescribed distance.

Requires an operator making a left turn at an intersection to yield the right-of-way to a vulnerable road user who is approaching from the opposite direction and is in the intersection or in such proximity to the intersection as to be an immediate hazard.

Prohibits an operator from overtaking a vulnerable road user traveling in the same direction and subsequently making a right-hand turn in front of the vulnerable road user unless the operator is safely clear of the vulnerable road user.

Prohibits the operator from maneuvering the vehicle in a manner that is intended to cause intimidation or harassment to a vulnerable road user or that threatens a vulnerable road user.

Requires an operator of a motor vehicle to exercise due care to avoid colliding with any vulnerable road user on a roadway or in an intersection of roadways.

Establishes that a violation is punishable under the general penalty provision of the law governing rules of the road, except that if the violation results in property damage, the violation is a misdemeanor punishable by a fine not to exceed \$500, or if the violation results in bodily injury, the violation is a Class B misdemeanor.

Provides that a defense to prosecution that at the time of the offense the vulnerable road user was acting in violation of the law.

Provides that if conduct constituting an offense under the bill's provisions also constitutes an offense under another law, the actor may be prosecuted under either law or both laws.

TxDOT Memorial Sign Program—S.B. 521

by Senator Averitt—Sponsor: Representative Keffer

Currently, the Highway Memorial Sign Program administered by the Texas Department of Transportation (TxDOT) allows for only one name to be shown on an individual sign. A constituent of Senate District 22 tragically lost her daughter, her unborn grandchild, and her daughter's fiancé because of a drunk driver. Because only one family or last name can be present on the highway memorial sign, the constituent had to purchase multiple signs to memorialize her loved ones. This bill:

Provides that a sign posted under TxDOT's memorial sign program may include the names of more than one victim so long as the total length of the names does not exceed one line of text.

Intermunicipal Commuter Rail Districts—S.B. 581

by Senator Wentworth—House Sponsor: Representative Rose

Currently, only counties and municipalities can join an intermunicipal commuter rail district. The board of a district does not possess the authority to change the name of the district. A district may maintain intermodal and commuter rail facilities. Federal legislation distinguishes between types of passenger rail, leading some to conclude that currently, an intermunicipal commuter rail district cannot offer intercity or other passenger rail service. Intermunicipal commuter rail districts are created to provide commuter rail services between municipalities. In the early stages of development, these districts, among other things, study the feasibility of the rail, develop funding alternatives, and develop a preliminary work plan. This bill:

Authorizes a public entity to become a part of an intermunicipal commuter rail district if the entity is located in a county that has become a part of the district.

Provides for the board of the district to include one member appointed by each public entity that has become a part of the district.

Requires the board to adopt a name for the district and authorizes the board by resolution to change the name.

Authorizes an intermunicipal commuter rail district to acquire, construct, develop, own, operate, and maintain intercity or other types of passenger rail services.

Code of Conduct for Metropolitan Planning Organizations—S.B. 585

by Senator Carona—House Sponsor: Representative Kent

Federal law requires that a metropolitan planning organization (MPO) be designated for each urban area with a population of 50,000 or more. Texas is home to 25 metropolitan planning organizations providing continuous, cooperative, and comprehensive transportation planning for their respective regions. The largest is the Dallas-Fort Worth MPO and the smallest is the Sherman-Denison MPO. Each of the MPOs receive federal funding for transportation planning. Many also receive state and local funds as well in order to carry out their mandated planning activities. This bill:

Prohibits a policy board member or employee of a metropolitan planning organization from accepting or soliciting any gift, favor, or service that might reasonably tend to influence the member or employee in the discharge of official duties or that the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct; accepting other employment or engaging in a business or professional activity that the member or employee might reasonably expect would require or induce the member or employee to disclose confidential information acquired by reason of the official position; accepting other employment or compensation that could reasonably be expected to impair the member's or employee's independence of judgment in the performance of the member's or employee's official duties; making personal investments that could reasonably be expected to create a substantial conflict between the member's or employee's private interest and the public interest; or intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for having exercised the member's or employee's official powers or performed the member's or employee's official duties in favor of another.

Requires each policy board to establish an ethics policy consistent with these prohibitions and to distribute a copy of the ethics policy to each employee and policy board member.

Establishes provisions relating to violation of a prohibition or a related ethics policy.

Motor Vehicle Window Tint Regulations—S.B. 589

by Senator Carona—House Sponsor: Representative Phillips

Currently, the provisions of the Transportation Code relating to restrictions on windows require that at least 25 percent of light pass through a windshield. Law enforcement officers can give a person a Class C misdemeanor citation if light transmission through the person's vehicle windows is less than 25 percent. By a Texas Department of Public Safety rule, however, a vehicle is authorized to pass a state vehicle inspection with 20 percent light transmission. Therefore, a discrepancy exists in the law between what level of tint is subject to law enforcement citation and what level of tint will pass a state vehicle inspection. This bill:

Requires a sunscreening device that is placed on or attached to the windshield or a side or rear window of a motor vehicle to have a label that states that the light transmission of the device is consistent with requirements exempting a windshield or other window with a suncreening device from a misdemeanor offense relating to restrictions on windows of a motor vehicle.

Specifies that the exemption for a wing vent or window with a sunscreening device is for a wing vent or window that is to the left or right of the vehicle operator and adds an exemption for a side window that is to the rear of the vehicle operator.

Makes it a misdemeanor punishable by a fine not to exceed \$1,000 if a person in the business of placing or attaching transparent material that alters the color or reduces the light transmission to a windshield or side or rear window fails to install the required label between the transparent material and the windshield or window of the vehicle.

Rights-of-Way for Natural Gas Pipelines—S.B. 686 [VETOED]

by Senator Wendy Davis et al.—House Sponsor: Representative Orr

State law currently requires cities to allow the installation of natural gas pipelines in their rights-of-way, but allows the Texas Transportation Commission (TTC) to deny pipeline companies the ability to install their pipelines beneath controlled access highways. As a result, natural gas pipeline companies undertaking drilling activities in cities such as Fort Worth have been installing their pipelines in residential neighborhoods when those same pipelines could have been installed in nearby highway rights-of-way. This has occurred even though pipeline companies operating in Fort Worth have expressed a preference to install their pipelines in highway rights-of-way rather than disrupting the lives of families and quiet neighborhoods. Texas Department of Transportation (TxDOT) staff members have informed Fort Worth officials that TxDOT will not permit the longitudinal installation of these pipelines in any portion of the highway rights-of-way adjacent to those neighborhoods. Although the Transportation Code and related regulations of TxDOT do not contain a blanket prohibition on the installation of all gas pipeline facilities, the permissive nature of the current law has allowed it to be interpreted this way over time. This bill:

Entitles a gas utility to lay, maintain, and operate a natural gas pipeline through, under, along, or across a controlled access highway if the pipeline meets certain requirements.

Limits this entitlement to a natural gas pipeline that is located or proposed to be located in a county in which a part of the Barnett Shale natural gas field is known to be located, in a county that is located in the boundaries of a metropolitan planning organization, or in the corporate limits of a municipality.

Authorizes TxDOT to require a gas utility to relocate a facility at the cost of the gas utility to accommodate construction or expansion of the highway or for any other public work unless the gas utility has a property interest in the land occupied by the facility.

Requires a county to allow subsurface access to a county road right-of-way for the installation of a temporary water line that does not interfere with existing utilities located in the right-of-way.

Authorizes the county to regulate the horizontal or vertical location of the water line within the right-of-way, and prohibits the county from adopting or enforcing an ordinance or regulation that establishes or conflicts with a safety standard or practice applicable to a temporary water line that is regulated under state or federal law.

Regulation of Towing Storage Facilities—S.B. 702

by Senator Carona—House Sponsor: Representative Jim Jackson

Legislation passed in the 80th Legislature, Regular Session, 2007, moved oversight of the towing and vehicle storage industry from the Texas Department of Transportation to the Texas Department of Licensing and Regulation (TDLR). The move provided increased oversight and a better regulatory system for the industry. However, several issues have arisen from the transition.

The Occupations Code provides for several types of licenses for a towing operator, including an incident management license, a private property license, and a consent tow operator's license. In addition to the towing operator license, Section 2303.101 (License Required), Occupations Code, requires a license holder in certain circumstances to also hold a vehicle storage facility license. Therefore, towing operators are required to hold two separate licenses from TDLR. This is burdensome to both the license applicant and TDLR, which is required to run two background checks on the same person.

In addition to the towing licenses, Sections 2308.153(b) (relating to requirements for an incident management towing operator's license), 2308.154(b) (relating to requirements for a private property towing operator's license), and 2308.155(b) (relating to requirements for a consent towing operator's license), respectively, require an applicant for a towing operator's license to also have a Texas driver's license. There are towing operators who live in bordering states, such as Arkansas, who work in Texas. These operators are required to obtain a Texas driver's license merely for the purpose of applying for a towing license with TDLR. There is also currently no temporary training license for those who are training to operate a tow truck. This bill:

Requires the Texas Commission of Licensing and Regulation (TCLR) to adopt rules by April 1, 2010, for the issuance of a dual license to authorize a person to work at a vehicle storage facility and perform towing operations.

Requires TDLR to issue such a license to an applicant who meets certain requirements established under the Vehicle Storage Facility Act and the Texas Towing Act and any applicable rules adopted under the acts.

Requires a vehicle storage facility that accepts a vehicle that is towed under the act to report to the local law enforcement agency with jurisdiction over the area from which the vehicle was towed within two hours after receiving the vehicle, and it specifies the information that must be reported.

Requires a vehicle storage facility to post all storage fees and to post a sign indicating that nonconsent tow fees schedules are available on request.

Requires an applicant for an incident management towing operator's license, a private property towing operator's license, or a consent towing operator's license to hold a valid driver's license issued by a state in the United States, rather than be a licensed Texas driver, and to be certified by a program approved by TDLR, rather than by a certain national program, as applicable.

Authorizes TDLR to issue a 90-day training license to an applicant for a towing operator's license who is engaged in the process of learning and assisting in the operation of a tow truck under the supervision of a licensed tow truck operator.

Requires TCLR to adopt rules by April 1, 2010, to set the fee, establish the qualifications, and provide for the issuance of the license.

Expands provisions relating to drug testing of towing operators to include alcohol testing.

Requires TCLR by rule to adopt not later than April 1, 2010, a model alcohol and drug testing policy for use by a towing company, and specifies that a towing company is not required to comply with the alcohol and drug testing policy until January 1, 2010.

Includes a vehicle that is leaking a fluid that presents a hazard or threat to persons or property among the circumstances under which the owner or operator of a vehicle is prohibited from leaving the vehicle unattended on a parking facility.

Requires a law enforcement agency directing a towing company or tow operator to remove an abandoned vehicle that has damaged a fence on private property in a rural area and that is located on the property to provide the towing company or tow operator with the name and telephone number of the property owner or the owner's agent if such information has been provided to the agency.

Requires a towing company or tow operator provided with such information to contact the property owner or the owner's agent before entering the property to tow the vehicle.

Provides that the legislation takes effect September 1, 2009, except for provisions relating to dual and training licenses, which take effect June 1, 2010.

Use of Online Driver's Education Courses—S.B. 858

by Senator Seliger—House Sponsor: Representative Jim Jackson

A student has several ways to fulfill the requirement that each applicant for a driver's license under the age of 18 take a comprehensive driver education course. An applicant may choose a course offered through a school district, open-enrollment charter school, or institution of higher education; a parent-taught course; or, a licensed driver training school. A driver's education course must include 32 hours of classroom instruction and 14 hours of behind-the-wheel training.

Courses offered through a school district or a parent-taught course may use on-line instruction instead of classroom instruction. On-line instruction curricula for school district courses must be approved by the Texas Education Agency, and the Department of Public Safety approves the on-line curricula of parent-taught courses.

Currently, the Texas Education Agency (TEA) does not have the statutory authority to approve online courses for commercial driving schools. Currently, only public school driver education courses and parents who teach their children to drive can utilize online driving courses. This bill:

Authorizes a driver education school to teach all or part of the classroom portion of an approved driver education course by an alternative method of instruction that does not require students to be present in a classroom if the alternative method includes testing and security measures that the commissioner of education determines are at least as secure as the measures available in the usual classroom setting, if the course, with the use of the alternative method, satisfies any other requirement applicable to a course in which the classroom portion is taught to students in the usual classroom setting, and if the commissioner of education approves the alternative method.

Authorizes the commissioner of education to establish a fee for an application for approval to offer a driver education course by an alternative method of instruction.

Regional Tollway Authority Powers and Duties—S.B. 882

by Senator Carona—House Sponsor: Representative Geren

In 2007, the 80th Legislature passed S.B. 792, which designated local toll project entities (like the North Texas Tollway Authority (NTTA) and the Harris County Toll Road Authority) as the toll operators of all the toll projects within their service area. This authority and responsibility required the authorities to enter into agreements with private developers of the toll projects. As part of these agreements, the private sector has attempted to obtain expensive letters of credit from the local toll project entities. Requiring letters of credit may sometimes negatively impact the local toll project entity's financial condition.

Also, under current law, a regional tollway authority (RTA), as defined under Chapter 366 (Regional Tollway Authorities), Transportation Code, has the authority to file complaints with local county justices of the peace to hear cases related to toll enforcement violations. Allowing NTTA to appoint an administrative officer to hear such cases would alleviate the workload of the Justice of the Peace system, as well as save the person against whom the violation is being enforced additional fees and fines that are imposed when a case is handled in the county system. This bill:

Provides that a regional tollway authority has the same powers and duties as the Texas Department of Transportation (TxDOT), a county acting under state law, and a regional mobility authority regarding the authority's toll collection and enforcement powers for the authority's turnpike projects and other toll projects developed, financed, constructed, or operated under a comprehensive development agreement or other agreement with the authority.

Provides that if the amount of a contract for engineering, design, and construction services exceeds \$50 million, rules governing the award of such contracts may provide for a stipend to be offered to an unsuccessful design-build firm that submits a response to the authority's request for additional information, in an amount and for certain costs and value as specified by the bill.

Requires a contract awarded under a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project to contain an explicit mechanism for setting the price for the purchase of the interest of the private participant in the contract and related property under the contract by the authority, rather than TxDOT.

Repeals Section 366.2521 (Gifts and Contributions; Offense), Transportation Code, and Section 366.2522 (Offering Gift to a Director; Offense), Transportation Code, that made it an offense if an RTA director accepts certain prohibited benefits or a person offers those benefits.

Prohibition on Use of State Highway Fund for a Toll Facility—S.B. 883

by Senators Carona—House Sponsor: Representative Pickett

The State Highway Fund 006 (Fund 006) has at times been used for non-highway purposes such as a loan guarantee or as an insurance for bonds in connection with certain toll projects. The use of Fund 006 for these purposes will eventually affect its value and ultimately have an adverse effect on the state's highway transportation system. This bill:

Prohibits the Texas Department of Transportation from encumbering money in the state highway fund to guarantee a loan or insure bonds associated with a toll facility of a public or private entity.

Emergency Vehicle Violation of Being Recorded by Red Light Camera—S.B. 926

by Senator Huffman—House Sponsor: Representative Fletcher

Current law authorizes Texas cities to install cameras at roadway intersections to monitor motorists' compliance with traffic light signals. These cameras, commonly referred to as red light cameras, may be used to identify and issue citations to motorists that fail to comply with traffic light signals. Owners of emergency vehicles have received red light camera citations for going through red lights while operating in the line of duty. This bill:

Prohibits a county, municipality, or other local entity authorized to enact traffic laws from imposing or attempting to impose a civil penalty on the owner of an authorized emergency vehicle for a failure to stop at a red light recorded by a photographic traffic signal enforcement system.

Provides that an employer is not prohibited from taking disciplinary action against an employee who operated the vehicle in violation of a rule or policy of the employer.

Non-Commercial Vehicles Transporting Commercial Goods—S.B. 1093

by Senator Carona—House Sponsor: Representative Pickett

Currently, statute defines a commercial vehicle as any vehicle that has a maximum allowable weight of 26,001 pounds or more, which includes a towed unit with a maximum allowable weight of more than 10,000 pounds. People are circumventing the law by using non-commercial vehicles which exceed the weight limits, such as a car with a trailer attached, in order to transport commercial goods. This practice creates a safety hazard due to people driving vehicles that weigh as much as a commercial motor vehicle without the appropriate license and training. This bill:

Redefines "commercial motor vehicle" for purposes of the law governing commercial driver's licenses as a motor vehicle or combination of motor vehicles used to transport passengers or property that, in addition to having a gross combination weight rating or gross vehicle weight rating of 26,001 or more pounds, has a gross combination weight or gross vehicle weight of that poundage.

Prohibits an employer from knowingly permitting a person to drive a commercial vehicle during a period in which the person has been denied the privilege of driving a commercial motor vehicle; the person is disqualified from driving a commercial motor vehicle; the person, the person's employer, or the vehicle being operated is subject to an out-of-service order in a state; or the person has more than one commercial driver's license, except during the 10-day period beginning on the date the person is issued a driver's license.

Provides that this section does not apply to an operator of a vehicle that is disabled while on the paved or main traveled part of a highway if it is impossible to avoid stopping and temporarily leaving the vehicle on the highway or a vehicle used exclusively to transport solid, semisolid, or liquid waste operated at the time in connection with the removal or transportation of solid, semisolid, or liquid waste from a location adjacent to the highway.

Collection of Data Regarding Bridge Collapses—S.B. 1218

by Senator Averitt—House Sponsor: Representative Pitts

There may only be a small number of bridge collapses that are associated with fatalities but it is still important information and an official record of such events should be maintained and accessible. This bill:

Requires the Texas Department of Transportation (TxDOT) to at least annually publish the statistical information derived from vehicle accident reports it receives.

Requires a medical examiner or justice of the peace to include information regarding the death of a person that was the result of a bridge collapse in a vehicle accident report submitted to TxDOT under state law.

Preventing the Use of Counterfeit Temporary Vehicle Tags—S.B. 1235

by Senator Wendy Davis—House Sponsor: Representative Veasey

Automobile dealers are currently required to use cardboard products for temporary vehicle tags. Allowing new products to be introduced into the industry will relieve the Texas Department of Transportation from having to write rules around the definition of cardboard. Extending the temporary buyer's vehicle tag and eliminating the blue supplemental tag will make it easier for law enforcement to identify counterfeit vehicle tags. This bill:

Removes references to a cardboard tag in provisions relating to the issuance and use of temporary tags on vehicles.

Provides that a dealer's authority to issue a temporary tag for use on an unregistered vehicle only for certain purposes does not prohibit a dealer from permitting a customer to operate a vehicle temporarily while the customer's vehicle is being repaired.

Provides that a buyer's temporary tag expires on the earlier of the date on which the vehicle is registered or the 60th, rather than 21st, day after the date of purchase.

Requires the seller of a motor vehicle sold in a seller-financed sale to apply for the registration of, and a Texas certificate of title for, the motor vehicle in the name of the purchaser to the appropriate county tax assessor-collector not later than the 45th day after the date the motor vehicle is delivered to the purchaser.

Policing Mass Transit Facilities—S.B. 1263

by Senator Watson—House Sponsor: Representative Rodriguez

Under current law, certain mass transit authorities must call upon commissioned peace officers to conduct fare inspections and issue citations to individuals who do not show proof of payment for boarding a bus or train. The activities of these peace officers would be better used in the enforcement of more serious criminal behavior against persons or the property of these mass transit authorities. It would be more efficient to use noncommissioned personnel in the enforcement of fares, but there is no statutory mechanism that would permit the engagement of fare enforcement officers that would give them proper jurisdiction to enforce fares. Additionally, this offense is a theft of service, which is considered a crime of moral turpitude.

The Transportation Code provides that commissioned peace officers employed by certain mass transit authorities have enforcement jurisdiction anywhere in the service area of these authorities. However, there is some doubt that the Transportation Code is clear enough to provide that contract commissioned peace officers engaged by certain mass transit authorities have enforcement jurisdiction in a part of the service area that is not their usual jurisdiction. This bill:

Authorizes a metropolitan rapid transit authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 to employ fare enforcement officers and establishes that a fare enforcement officer is not a peace officer and has no special authority to enforce a criminal law.

Authorizes a peace officer contracted for employment by the authority to have the same powers and duties as a peace officer commissioned and employed under other provisions of the law governing metropolitan rapid transit authorities, including the authority to make an arrest in any county in which the transit authority system is located.

Requires the board of the metropolitan rapid transit authority (board) to appoint a qualified individual to perform internal auditing services for a term of five years.

Authorizes the board to remove the auditor only on the affirmative vote of at least three-fourths of the members of the board.

Sets forth the manner in which members of the board are appointed and the composition of the board.

Makes the bill subject to the authority to the Texas Sunset Act and revises the composition of the board of the authority.

Adds provisions relating to the authority of certain transit authorities to take private property through the use of eminent domain.

Education and Examination Requirements for Issuance of a Driver's License—S.B. 1317

by Senators Wentworth and Lucio—House Sponsor: Representative Todd Smith

In 2007, Texas issued about 170,000 driver's licenses to first-time applicants 18 to 24 years of age. While applicants under 18 years of age are statutorily mandated to complete a comprehensive driver education training of nearly 50 hours, applicants over 18 years of age have no driver education requirement except passing a Department of Public Safety of the State of Texas (DPS) administered written test on traffic rules and signs and a basic behind-the-wheel skills test prior to a license being issued. Data shows that in each year from 2000 to 2005, the rate of deaths by motor vehicle accident for Texans 15 to 24 years of age was about 50 percent higher than that of Texans 25 to 34 years of age and 60 percent higher than the overall Texas average.

This bill seeks to establish basic driver training instruction for driver's license applicants 18 to 24 years of age that is based on research that has identified issues most commonly associated with motor vehicle accidents involving new drivers, such as risk taking, impaired driving, speed, driving at night, and using a wireless communication device while operating a vehicle. This bill:

Prohibits DPS from issuing a driver's license to a person who is younger than 25 years of age unless the person submits an appropriate driver education certificate to DPS that states that the person has completed and passed a certain driver education or traffic safety course, or both, approved by the Texas Education Agency (TEA) or a driver education course approved by DPS.

Provides an exemption from state law requirements for the highway sign and traffic law parts of an examination for a person who has completed and passed a TEA-approved adult driver education course.

Requires the commissioner of education by rule to designate the educational materials, rather than the textbooks, to be used in a driver education course.

Sets forth the required content of the driver education course exclusively for adults, which may be offered online.

Authorizes the commissioner of education to charge a fee to each driver education school for expenses incurred by TEA in the regulation of the adult driver education courses.

Fees for Vehicle Identification Numbers Assigned by TxDOT—S.B. 1356

by Senator Lucio—House Sponsor: Representative Olivera

Currently, Section 501.033, Transportation Code, addressing assignment of vehicle identification numbers of certain vehicles requires an Application for Assigned or Reassigned Number (form VTR-68-A), which is a combined application and inspection report, to accompany title transfer documents that result from auction sales, foreign vehicles, mechanic's liens, storage liens, and title hearings.

The inspection report is required to be completed by a law enforcement officer who is a member of an auto theft unit and the inspection process requires a significant investment of human resources. This bill:

Authorizes a county or municipal law enforcement agency to impose a fee of \$40 if the auto theft unit of the agency conducts an inspection required by the Texas Department of Transportation (TxDOT) in connection with the assignment of a vehicle identification number by TxDOT.

Requires the county or municipal treasurer to credit the fee to the general fund of the county or municipality, as applicable, to defray the agency's costs associated with the inspection.

Requires the fee to be waived by TxDOT or the agency imposing the fee if the person applying for an assigned vehicle number is the current registered owner of the vehicle.

Optometrists' Prescription Authority for a Disabled Parking Placard—S.B. 1367

by Senator Carona—House Sponsor: Representative Pickett

The original statute in the Transportation Code that provided for the issuance of disabled parking placards was written years ago in broad language under which optometrists were allowed to issue disability placards. The law was subsequently amended to limit issuance of such placards to a licensed doctor of medicine or doctor of osteopathy. However, other practitioners, including podiatrists, have since been authorized to issue disability placards.

Approximately 80 percent of individuals receive their eye care and determination of visual functioning from an optometrist. Optometrists also provide low vision rehabilitation services for patients with visual disabilities and coordinate care and support for persons with legal blindness. Even if a visually disabled person does not drive, relying instead on another person for transportation, the visually disabled person has sight and mobility issues and would benefit from having access to a preferential parking spot. This bill:

Authorizes a person who is licensed to practice optometry or therapeutic optometry to provide a notarized statement or written prescription required for a disabled parking placard for a person who has a mobility problem caused by an impairment of vision.

TxDOT Plan for Statewide Passenger Rail System—S.B. 1382

by Senator Carona—House Sponsor: Representative McClendon

Currently, no state entity has a leading role in passenger rail development, which results in relatively little attention being paid to rail as an option for addressing some of the state's transportation problems, and the state lacking a comprehensive examination or plan for the development of a passenger rail system. This bill:

Requires the Texas Department of Transportation to coordinate activities regarding the planning, construction, operation, and maintenance of a statewide passenger rail system and to prepare and update annually a long-term plan for such a system.

Requires the plan to include:

- a description of existing and proposed passenger rail systems;
- information regarding the status of passenger rail systems under construction;
- an analysis of potential interconnectivity difficulties;
- ridership projections for proposed passenger rail projects; and
- ridership statistics for existing passenger rail systems.

Nonsubstantive Revision of Railroad Statutes—S.B. 1540

by Senator Carona—House Sponsor: Representative Philips

The Texas Legislative Council is required by law to carry out a complete nonsubstantive revision of the Texas statutes. This bill:

Makes nonsubstantive additions and revisions to the Transportation Code, Natural Resources Code, and the Government Code involving railroads, along with conforming and citation revisions.

Issuance of Certain Permits for Overweight Vehicles—S.B. 1571

by Senator Hinojosa—House Sponsor: Representative Herrero

Currently, the Port of Corpus Christi Authority of Nueces County (PCCA) has no ability to issue permits for the movement of oversize or overweight cargo on any roads it owns and maintains in Nueces County and San Patricio County. PCCA also has no ability to enter into an agreement with the Texas Department of Transportation (TxDOT) to issue similar permits on a proposed special freight corridor to be built in San Patricio County.

Without the authority to issue permits, PCCA has no ability to regulate when these trucks may move through the port, determine what kind or size of cargo is being carried, or specify which route they must take. This creates problems for the efficient operation of the port and its customers, and limits PCCA's ability to efficiently handle the cargo of prospective customers that may wish to move this type of cargo through the port. This bill:

Provides for the use of an optional procedure for the issuance of a permit by PCCA for the movement of oversize or overweight vehicles carrying cargo on a roadway owned and maintained by the port authority that is located in San Patricio County or Nueces County.

Authorizes PCCA to issue permits for the movement of oversize or overweight vehicles carrying cargo on a roadway owned and maintained by PCCA that is located in San Patricio County or Nueces County.

Authorizes the port authority to collect a fee, not to exceed \$80 per trip, for permits issued and to solely to be used for the construction and maintenance of PCCA roadways.

Authorizes PCCA to issue special freight corridor permits only if the Texas Transportation Commission authorizes PCCA to issue the permits and the cargo being transported weighs 125,000 pounds or less.

Authorizes PCCA to collect a fee for special freight corridor permits, which is prohibited from exceeding \$80 per trip.

Requires PCCA to make payments to TxDOT to provide funds for the maintenance of state highways.

Control of Access to State Highways by TxDOT—S.B. 1609

by Senator Hegar—House Sponsor: Representative Callegari

Current law is largely silent on access management. The Texas Department of Transportation (TxDOT) outlines those standards in its Access Management Manual, a document that is not part of the Administrative Code. Revision of the manual does not involve stakeholder input or public decision. This bill:

Sets forth the rulemaking requirements for the Texas Transportation Commission in the exercise of its authority to manage access to or from a controlled access highway, including rules related to a decision by a TxDOT district office denying a request for access to a specific location on a controlled access highway; procedures for appealing a denial; access management standards for access points to or from a controlled access highway that are located on undeveloped property; a proposed highway construction project that will permanently alter permitted access to or from a controlled access highway; criteria for determining when a variance to access management standards may be granted; and the application of new access management standards to the remodeling or demolition and rebuilding of a business.

Requirements for Orders Closing, Abandoning, or Vacating a County Road—S.B. 1614

by Senator Wentworth—House Sponsor: Representative Doug Miller

An order vesting title to a public road or portion of a public road that is closed, abandoned, and vacated to the center line of the road must be filed in the deed records of a county and serves as the official instrument of conveyance from the county to the owner of the abutting property. These orders sometimes contain insufficient information to serve the purpose for which they were designed and are hard to locate because there are no uniform guidelines for filing them in the county deed records. This bill:

Requires that a copy of an order conveying title to a public road or portion of a public road that is closed, abandoned, and vacated to the owner of the abutting property to be filed in the deed records of a county and specifies that the copy serves as the official instrument of conveyance from the county to the owner.

Requires such an order to include the name of each property owner who receives a conveyance and the dimensions of the property conveyed to each recipient and to be indexed in the deed records of the county in a manner that describes the county conveying the property as grantor and the property owner receiving the conveyance as grantee.

Fees for Issuance of Certain License Plates—S.B. 1616

by Senator Wentworth—House Sponsor: Representative Phillips

A number of matters have arisen since the awarding of a contract to a private vendor to market and sell personalized and other specialty license plates in Texas. Currently the personalized license plate program is limited in the variety of plates it may offer and in the prices it may set for those plates. The purpose of this legislation is to offer Texas drivers a wider variety of license plate options and increase revenue from the program. This bill:

Prohibits the Texas Department of Transportation (TxDOT) from issuing specialty, personalized, or souvenir license plates with background colors other than white unless the plates are marketed and sold by the private vendor.

Requires specialty license plates marketed and sold by the private vendor to include an existing specialty license plate created before September 1, 2009, at the request of the specialty license plate sponsor.

Authorizes the private vendor to sell at auction a license to display a unique alphanumeric pattern on a license plate and provides that only a license sold by the private vendor may be transferred to another person.

Establishes that the fee for a personalized license plate issued before September 1, 2009, is \$40 unless the executive director of TxDOT by rule adopts a higher fee.

Provides that the fees for personalized license plates that are marketed and sold by the private vendor are established by rule of the Texas Transportation Commission.

Titling and Registering Certain Motor Vehicles—S.B. 1617

by Senator Wentworth—House Sponsor: Representative Wayne Smith

Under current law a motor vehicle manufacturer may be forced to repurchase a defective motor vehicle; however, the current mechanism in place is not sufficient to put subsequent purchasers of the vehicle on notice.

Sellers of motor vehicles are often subject to civil or criminal liability arising from the ownership of a vehicle even though the seller did not own the vehicle at the time of the event that triggered the liability. Parking and toll violations are the most common activities. Under current law a seller can notify the Texas Department of Transportation

(TxDOT) of the sale of the vehicle before formal title transfer, but the presumption created by this provision does not operate in every situation and involves bureaucratic activities the seller should not be forced to endure. This bill:

Requires a certificate of title for a motor vehicle that has been the subject of an ordered repurchase or replacement to include a notice sufficient to inform a purchaser of the vehicle's status.

Provides that a transferor of a used motor vehicle who files the appropriate form with TxDOT has no vicarious civil or criminal liability arising out of the use, operation, or abandonment of the vehicle by another person.

Establishes that provisions relating to a county assessor-collector's or TxDOT's authority to refuse to register a motor vehicle if the owner has certain outstanding traffic violations do not apply to the registration of a motor vehicle by a dealer.

Certain Sales of a Used Motor Vehicle as a Disposition—S.B. 1827

by Senator Huffman—House Sponsor: Representative Elkins

Under Texas law, a creditor may sell repossessed property in either a public or private sale. If the sale is private, the creditor must provide the debtor with notice of the date after which the collateral will be sold. By law, neither the debtor nor the creditor has a right to bid on the property in a private sale.

Currently, when selling repossessed vehicles, Texas law treats vehicle dealers differently than auction houses. If the vehicle is sold by a car dealer, the creditor need only provide notice to the debtor before placing the vehicle for sale, even if it takes weeks to sell the vehicle. However, if the vehicle is sold at auction by an auction house, the creditor must provide notice to the debtor every time the vehicle is placed for sale. It may require multiple auctions before a vehicle is sold, and the creditor may need to provide notice each time the vehicle is reset for sale at auction. This bill:

Establishes that the sale by a secured party acting under the Uniform Commercial Code of collateral consisting of a used motor vehicle at auction conducted by an independent motor vehicle dealer constitutes a private disposition under the code for all purposes if certain conditions are met.

Administration and Powers of a Coordinated County Transportation Authority—S.B. 1876

by Senator Nelson—House Sponsor: Representative Solomons

The 77th Legislature, Regular Session, 2001, enacted legislation that enabled Denton County to create a coordinated county transportation authority, Denton County Transportation Authority (DCTA), under Chapter 460, Transportation Code, provisions governing a coordinated county transportation authority. As DCTA expands its public transportation services in Denton County, it needs access to the same resources available to other transportation services in the Dallas-Fort Worth area, such as the Dallas Area Rapid Transit and the Fort Worth Transportation Authority. This bill:

Requires that an election to obtain voter approval of a coordinated county transportation authority's proposed issuance of bonds secured by a pledge of sales tax revenue and having a maturity of five years or longer be held in the municipalities in which the authority has been authorized to impose a sales and use tax.

Removes the condition that the proposition be approved in accordance with provisions established for the authorization of a tax levy by the authority and exempts the issuance of refunding bonds or bonds for the creation or funding of self-insurance or retirement or pension fund reserves from the election and voter approval requirements above.

Provides that the authority's authorization to mortgage any part of the public transportation system to secure the payment of its bonds applies regardless of when the part of the system is acquired.

Authorizes an authority to issue obligations and enter into credit agreements.

Establishes that any act or proceeding of a coordinated county transportation authority is validated as of the date it occurred and that the provisions of the bill do not validate any governmental act or proceeding that, under state law at the time the act or proceeding occurred, was a misdemeanor offense or a felony offense.

Motorcycle Safety Training—S.B. 1967

by Senator Carona—House Sponsor: Representative Chavez

Motorcycle safety is an important issue in Texas. Currently, it is an offense under Section 661.003 (Offenses Relating to Not Wearing Protective Headgear), Transportation Code, to drive or ride on a motorcycle without a helmet unless the person is 21 years of age and has completed a motorcycle safety course or has health insurance. However, Texas statute does not require all motorcyclists or the public to complete any motorcycle safety training. This bill:

Requires the Texas Department of Transportation (TxDOT) to conduct a continuing public awareness campaign to promote motorcyclist safety and the concept of sharing the road with motorcyclists.

Requires an applicant for a Class M license or a certain driver's license or learner's permit that includes an authorization to operate a motorcycle to furnish to the Department of Public Safety (DPS) satisfactory evidence that the applicant has successfully completed a basic motorcycle operator training course approved by DPS.

Establishes penalties for failure by an operator of a vehicle to yield the right-of-way to another vehicle punishable by a fine, ranging from \$500 to \$4,000, if a person other than the operator suffers bodily injury.

Removes the \$10,000 minimum amount a person is required to be covered in health insurance for injuries incurred in a motorcycle accident to be eligible for an exception for the offense of operating or riding a motorcycle without a helmet.

Requires the Texas Department of Insurance to prescribe a standard proof of health insurance for issuance to persons who are at least 21 years of age and covered by an applicable health insurance plan.

Prohibits a peace officer from stopping or detaining a person who is the operator of or a passenger on a motorcycle for the sole purpose of determining whether the person has successfully completed a motorcycle operator training and safety course or is covered by a motorcycle health insurance plan.

Repeals Sections 661.003(d) (relating to TxDOT issuing a sticker to certain motorcyclists), (e) (relating to application for a sticker from TxDOT), (f) (relating to the expiration of a sticker from TxDOT), and (g) (relating to a sticker from TxDOT communicating completion of a motorcycle training and safety course), Transportation Code, relating to requiring a DPS-issued sticker be displayed on a motorcycle by a motorcycle owner.

Certification of a Person for Disabled Parking Privileges—S.B. 1984

by Senators Uresti and Hegar—House Sponsor: Representative Tracey King

Physicians often practice in a team model, wherein a physician supervises and delegates to physician assistants (PAs). In many physician practices the patient may only see their PA, especially in rural and medically underserved

areas. Like a prescription for medication, a prescription for a handicap parking placard is, for some patients, a medical necessity.

Section 681.001(5) (relating to the definition of "mobility problem that substantially impairs a person's ability to ambulate"), Transportation Code, provides for a written prescription by a licensed physician for a handicap parking placard. The language is restrictive to a licensed physician, such that only a physician is authorized to prescribe a handicap placard. By extending the authority to prescribe handicap parking placards to PAs, the Transportation Code is being updated to conform to actual practice and to ensure that patients will not be delayed in receiving their medically necessary disabled parking privileges. This bill:

Authorizes the notarized written statement or written prescription that must accompany the first application for a disabled parking placard to be issued by an advanced practice nurse or physician assistant if the applicant resides in a county with a population of 125,000 or less.

Memorials Honoring Certain Peace Officers Killed in the Line of Duty—S.B. 2028

by Senator Watson—House Sponsor: Representative Rodriguez

Currently, the Texas Transportation Commission and the Texas Department of Transportation (TxDOT) permit roadside memorials for Department of Public Safety of the State of Texas (DPS) troopers killed in the line of duty. The marker is placed on the state highway right-of-way near the location where the DPS trooper was slain. The markers do not cost the state any money; they are paid for and erected at private expense. The markers contain biographical information about the trooper and information about the incident that resulted in the trooper's loss of life. Other law enforcement officers killed on state highways in the line of duty do not receive such recognition. Because the use of state highway rights-of-way is controlled by the commission and TxDOT policy, a change in law to direct the inclusion of all peace officers killed in the line of duty is necessary. This bill:

Requires the Texas Transportation Commission by rule to authorize memorial markers honoring peace officers killed in the line of duty who are not DPS troopers.

Requires the program for memorial markers honoring such peace officers to be identical to the commission's existing program for memorial markers honoring DPS troopers.

Driver's Licenses Examination Requirements Related to Bicyclists—S.B. 2041

by Senator Ellis et al.—House Sponsor: Representative Driver

Currently, the Texas driver's license examination does not contain questions about motorists' rights and responsibilities in relation to bicyclists. This bill:

Requires an examination of driver's license applicants administered by the Department of Public Safety of the State of Texas (DPS) to include, in addition to other requirements, a test of the applicant's knowledge of motorists' rights and responsibilities in relation to bicyclists.

Requires DPS to give each applicant the option of taking that part of the examination in writing in addition to or instead of through a mechanical, electronic, or other testing method.

Provides that a driver's license examination administered by DPS is not required to include a question testing the applicant's knowledge of motorists' rights and responsibilities in relation to bicyclists if the examination is administered before February 1, 2010.

Economic Development for Inland Port Transportation Facilities—S.B. 2052

by Senator Estes—House Sponsor: Representative Parker

The Development Corporation Act, recently codified as Subtitle (C)(1), Local Government Code, is the organizing law used by hundreds of Texas municipalities to foster economic development. Currently, the term "inland port" is not included in the definition of a transportation facility under provisions governing development corporations. Since the passage of H.B. 3440, 80th Legislature, Regular Session, 2007, relating to development corporations and airport facilities, economic development professionals have learned that including this term in the definition of transportation facility would help to retain and create additional economic development projects across Texas. This bill:

Redefines "project" to include the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are found by the board of directors of a corporation to be required or suitable for the development, retention, or expansion of transportation facilities, including railports, rail switching facilities, maintenance and repair facilities, rather than airport maintenance and repair facilities, cargo facilities, rather than aircargo facilities, related infrastructure located on or adjacent to an airport or railport facility, marine ports, inland ports, mass commuting facilities, and parking facilities.

Harris County Road Law—S.B. 2058

by Senator Williams—House Sponsor: Representative Wayne Smith

A recent court decision held that the Harris County Road Law, enacted in 1913, does not prevail when in conflict with the general laws of the state. This bill:

Clarifies that the rules and regulations adopted under the Harris County Road Law control as to Harris County when in conflict with the general laws of the state.

Booting Vehicles by Private Entities in Parking Facilities—S.B. 2153

by Senator Whitmire—House Sponsor: Representative Hernandez

Vehicle immobilization by privately owned booting companies in parking facilities is unregulated by state law in Texas, which may result unreasonable, inconsistent, fraudulent, and coercive business practices by booting companies acting on behalf of and in collusion with parking facilities. This bill:

Establishes that the Act does not apply to a person who, while exercising a statutory or contractual lien right with regard to a vehicle, installs or removes a boot, or controls, installs, or directs the installation and removal of one or more boots, or to a commercial office building owner or manager who installs or removes a boot in the building's parking facility.

Requires the Texas Commission of Licensing and Regulation to adopt rules for permitting booting companies and boot operators.

Prohibits a person from performing booting operations or operating a booting company unless the person holds an appropriate license.

Requires an applicant for a booting company license to submit evidence of financial responsibility as prescribed by the bill.

Authorizes a municipality to adopt an ordinance that matches or exceeds, but does not conflict with, the booting provisions under the Texas Towing and Booting Act.

Authorizes a municipality to regulate the fees that may be charged in connection with the booting of a vehicle, including associated parking fees, and to require booting companies to obtain a permit to operate in the municipality.

Authorizes a parking facility owner to cause a boot to be installed on a vehicle in the parking facility if lawful signs prohibiting unauthorized vehicles are located on the parking facility at the time of the booting and for the preceding 24 hours and remain installed at the time of the booting.

Requires a boot operator that installs a boot on a vehicle to affix a conspicuous notice to the vehicle's front windshield or driver's side window and to provide a receipt to the vehicle owner or operator on removal of the boot.

Requires the notice and receipt to include certain information, including notice of the right to a hearing, and requires the booting company to maintain a copy of the receipt at its place of business for a period of three years.

Requires a booting company to accept payment by an electronic check, debit card, or credit card for any fee or charge associated with the removal of a boot, and it prohibits a booting company from collecting a fee for any charge associated with the removal of a boot from a person who offers to pay the charge with an electronic check, debit card, or credit card form of payment that the booting company is not equipped to accept.

Establishes that for booted vehicles a hearing is held in the justice court having jurisdiction in the precinct in which the parking facility is located.

Requires the court to notify the person who requested the hearing for a booted vehicle, the parking facility in which the vehicle was booted, and the booting company of the date, time, and place of the hearing in the manner provided by provisions for methods of service under the Texas Rules of Civil Procedure.

Establishes that the issues in a hearing regarding a booted vehicle are whether probable cause existed for the booting of the vehicle and whether a boot removal charge imposed or collected in connection with the removal of the boot was greater than the amount authorized by a municipal ordinance.

Authorizes a court to award, in addition to other amounts, an amount equal to the amount that the booting removal charge and associated parking fees exceeded fees regulated by a political subdivision or authorized by law.

Prohibits a parking facility owner from directly or indirectly accepting anything of value from a booting company in connection with booting a vehicle in a parking facility.

Prohibits a parking facility owner from having a direct or indirect monetary interest in a booting company that for compensation boots vehicles in a parking facility in which the parking facility owner has an interest.

Prohibits a towing company or booting company from directly or indirectly giving anything of value to a parking facility owner in connection with the booting of a vehicle in a parking facility.

Prohibits a towing company or booting company from having a direct or indirect monetary interest in a parking facility in which the booting company for compensation installs boots on unauthorized vehicles.

Establishes that, if, in a hearing held under the act the court finds that a person authorized, with probable cause, the booting of a vehicle in a parking facility, the person who requested the hearing pays the costs of the booting.

Establishes that, if, in a hearing the court does not find that a person authorized, with probable cause, the booting of a vehicle, the person that authorized the booting pays the costs of the booting and any related parking fees or reimburses the owner or operator for the cost of the booting and any related parking fees paid by the owner or operator.

Adds a representative of a booting company to the Towing and Storage Advisory Board, which is renamed the Towing, Storage, and Booting Advisory Board.

Requires the presiding officer of the Texas Commission of Licensing and Regulation to appoint the representative of the booting company promptly after the bill takes effect.

Materials for the Energy Services Program for Low-Income Individuals—H.B. 434

by Representatives Lucio III and Leibowitz—Senate Sponsor: Senator Hinojosa

Currently, the Texas Department of Housing and Community Affairs administers the Energy Services Program for Low-Income Individuals that includes the Low-Income Home Energy Assistance Program, the weatherization program, and the Energy Crisis Intervention Program. These programs assist low-income households in meeting their immediate energy needs and encourage consumers to control energy costs through energy education. This bill:

Requires that applications, forms, and educational materials for the Energy Crisis Intervention Program, the weatherization program, or the Low-Income Home Energy Assistance Program be provided in English, Spanish, and any other appropriate language.

Liability of Public Utility When Land Used for Recreation by City of El Paso—H.B. 783

by Representative Pickett—Senate Sponsor: Senator Shapleigh

The City of El Paso has adopted a master development plan for the city that provides more park land along certain drainage ditches and a mountain owned by an electric company and water improvement district. These utility companies have been reluctant to allow a park trail to be routed over their land because of potential liability costs if someone were to be injured on the land. This bill:

Provides that a public utility that, as the owner, easement holder, occupant, or lessee of land, signs an agreement with a municipality, county, or political subdivision to allow public access to or use of the premises for recreation does not assume responsibility or incur liability to a third party who enters the premises for recreation to the extent the municipality, county, or political subdivision purchases a general liability insurance policy.

Limits application of the bill to El Paso.

Tenant Rights and Interruptions of Utility Service—H.B. 882

by Representative Rodriguez et al.—Senate Sponsor: Senator Eltife

Section 92.008 (Interruption of Utilities), Property Code, prohibits a residential landlord or landlord's agent from interrupting a tenant's utility service paid directly to a utility company except for repairs, construction, or in cases of emergency. If a tenant's electrical service is provided as part of the tenancy, is in the landlord or landlord's agent name, and is not individually metered or submetered, and the tenant is at least seven days late in paying the rent, the landlord may interrupt the electrical service after providing written notice at least five days before, and only if the interruption starts during the landlord's normal business hours and the landlord or a designated individual is available on-site to accept rent payment and restore service. A landlord may incorrectly disconnect utility service when it is not authorized under state law, causing potential liability for the landlord and leaving residents without needed utility service. In such cases, it may be difficult for tenants to get the utility service restored, since any judicial remedies require going to county or district court, which can be time consuming and expensive for both parties. This bill:

Prohibits a landlord from interrupting or causing the interruption of certain utility services furnished to a tenant by the landlord as an incident of the tenancy or by other agreement unless the interruption results from bona fide repairs, construction, or an emergency.

Authorizes the tenant, if a landlord has interrupted utility service in violation of Section 92.008 (Interruption of Utilities), to obtain relief.

Requires the tenant to file with the justice court in the precinct in which the rental premises are located a sworn complaint specifying the facts of the alleged unlawful utility disconnection by the landlord or the landlord's agent.

Authorizes the justice, if the tenant has complied and if the justice reasonably believes an unlawful utility disconnection has likely occurred, to issue, ex parte, a writ of restoration of utility service that entitles the tenant to immediate and temporary restoration of the disconnected utility service, pending a final hearing on the tenant's sworn complaint.

Requires that the writ of restoration of utility service be served on either the landlord or the landlord's management company, on-premises manager, or rent collector in the same manner as a writ of possession in a forcible detainer suit.

Entitles the landlord to a hearing on the tenant's sworn complaint for restoration of utility service.

Authorizes a judgment for court costs to be rendered against the landlord if the landlord fails to request a hearing on the tenant's sworn complaint for restoration of utility service before the eighth day after the date of service of the writ of restoration of utility service on the landlord.

Authorizes a party to appeal from the court's judgment at the hearing on the sworn complaint for restoration of utility service in the same manner as a party may appeal a judgment in a forcible detainer suit.

Provides that if a writ of possession is issued, it supersedes a writ of restoration of utility service.

Provides that if the landlord or the person on whom a writ of restoration of utility service is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the landlord or the person on whom the writ was served.

Authorizes the tenant or the tenant's attorney, if the writ is disobeyed, to file in the court in which the action is pending an affidavit stating the name of the person who has disobeyed the writ and describing the acts or omissions constituting the disobedience.

Requires the justice, on receipt of an affidavit, to issue a show cause order, directing the person to appear on a designated date and show cause why the person should not be adjudged in contempt of court.

Authorizes the justice, if the justice finds, after considering the evidence at the hearing, that the person has directly or indirectly disobeyed the writ, to commit the person to jail without bail until the person purges the contempt action or omission in a manner and form as the justice may direct.

Authorizes the justice, if the person disobeyed the writ before receiving the show cause order but has complied with the writ after receiving the order, to find the person in contempt and assess punishment.

Authorizes the landlord, if a tenant in bad faith files a sworn complaint for restoration of utility service resulting in a writ being served on the landlord or landlord's agent, in a separate cause of action to recover from the tenant an amount equal to actual damages, one month's rent or \$500, whichever is greater; reasonable attorney's fees; and costs of court, less any sums for which the landlord is liable to the tenant.

Sets forth provisions for fees for filing a sworn complaint, service of a writ of restoration, and service for a show cause order.

Repeals Sections 92.008(c) (relating to the authorization of a landlord to interrupt or cause the interruption of electrical service under certain conditions), (d) (relating to the authorization of a landlord to interrupt or cause the

interruption of electrical service under certain conditions), and (e) (relating to the requirement of a landlord to restore electrical service by a certain time), Property Code.

Electric Bill Information—H.B. 1799

by Representative Bohac et al.—Senate Sponsor: Senator Eltife

The Public Utility Commission developed the Texas Electric Choice website, powertochoose.com, which provides information about electric competition in Texas and helps electric customers make informed decisions about electric service and retail electric providers. However, many Texans are unaware of the website and may not have chosen the best plan for their particular circumstances. This bill:

Requires a retail electric provider to include on each residential customer's bill a statement, in at least 12-point type on the front of the first page, that reads: "For more information about residential electric service please visit www.powertochoose.com."

Certain Terms Included in Retail Utility Bills—H.B. 1822

by Representative Solomons et al.—Senate Sponsor: Senator Fraser

Under Chapter 17 (Customer Protection), Utilities Code, the Public Utility Commission (PUC) is required to adopt and enforce rules requiring certificated telecommunications utilities, retail electric providers, and electric utilities to give customers clear and uniform information on rates, terms, services, customer rights, and other information. Every service provider submitting charges on a bill for telecommunications or electric services must be clearly and easily identified on the bill, along with its services, products, and charges. However, current utility bills are lengthy and use confusing language that an average consumer might not comprehend. Also, different providers use the same terms in varying ways. Uniformly defining terms in plain language would help shorten and simplify utility bills and allow consumers to understand transactions and make informed decisions when selecting utility services and changing providers. This bill:

Requires that the PUC rules relating to customer awareness include a list of defined terms common to the telecommunications and electricity industries and requires that applicable terms be labeled uniformly on each retail bill sent to a customer by a certificated telecommunications utility, retail electric provider, or electric utility to facilitate consumer understanding of relevant billing elements.

Entitles all buyers of telecommunications and retail electric services to bills presented in a clear, readable format and easy-to-understand language that uses defined terms as required by PUC rules.

Authorizes a service provider, retail electric provider, or billing agent to submit charges for a new product or service to be billed on a customer's telephone or retail electric bill only if the service provider, retail electric provider, or billing agent uses defined terms on the bill and in contracts for residential and small commercial customers as required by PUC rules.

Requires a retail electric provider to provide residential customer who has a fixed rate product with at least one written notice of the date the fixed rate product will expire and sets requirements for that notice.

Requires a retail electric provider to include on each billing statement the end date of the fixed rate product.

Electric Service Reliability Measures—H.B. 2052*by Representative Hilderbran—Senate Sponsor: Senator Eltife*

The reliability of electric feeders is measured by a system average interruption duration index (SAIDI) and a system average interruption frequency index (SAIFI). SAIDI measures the average number of outage minutes experienced by the total number of customers being served. SAIFI measures the average number of interruptions experienced by the total number of customers being served.

Under current law, the Public Utility Commission of Texas (PUC) is required to take enforcement action against an electric utility or a transmission and distribution utility if any feeder with 10 or more customers appears on the utility's list of worst 10 percent performing feeders for any two consecutive years or has had a SAIDI or SAIFI average that is more than 300 percent greater than the system average of all feeders during any two year period. The PUC has no discretion to take enforcement action and is required to take such action against a utility regardless of the underlying cause and despite the fact that the feeder may have acceptable performance based on relatively good SAIDI and SAIFI averages. This bill:

Authorizes, rather than requires, PUC to take appropriate enforcement action under this section, including action against a utility, if any of the utility's feeders with 10 or more customers has had a SAIDI or SAIFI average that is more than 300 percent greater than the system average of all feeders during any two-year period, beginning in the year 2000.

Requires PUC, in determining the appropriate enforcement action, to consider the feeder's operating and maintenance history, the cause of each interruption in the feeder's service, any action taken by a utility to address the feeder's performance, the estimated cost and benefit of remediating a feeder's performance, and any other relevant factor as determined by PUC.

Residential Water and Sewer Connection Assistance—H.B. 2374*by Representative Guillen et al.—Senate Sponsor: Senator Lucio*

The Texas Water Development Board (TWDB) historically has not funded construction of service connections on private property for TWDB-funded water and wastewater projects under the Economically Distressed Areas Program, because of the constitutional limitation on the use of public bonds for private benefit.

Consequently, the public purpose of the Economically Distressed Areas Program, to eliminate unsanitary water and wastewater conditions and the public health threats associated with those conditions, remains unmet and unresolved. This bill:

Authorizes a political subdivision to use financial assistance to pay the costs of connecting a residence to a public water supply system constructed with financial assistance, the costs of installing yard water service connections, the costs of installing indoor plumbing facilities and fixtures, the costs of connecting a residence to a sanitary sewer system constructed with financial assistance, necessary connection and permit fees, and necessary costs related to the design of plumbing improvements described by this subsection.

Requires that assistance under this section only be provided to residents who demonstrate an inability to pay for the improvements in accordance with TWDB rules.

Authorizes TWDB, if TWDB determines that a resident to whom assistance has been provided is ineligible to receive the assistance, to seek reimbursement from the resident.

Certificates of Convenience and Necessity—H.B. 3309

by Representative Gattis—Senate Sponsor: Senator Ogden

Currently, under the Utilities Code, an electric utility may not directly or indirectly provide service to the public under a franchise or permit unless the utility first obtains from the Public Utility Commission of Texas (PUC) a certificate of convenience and necessity (CCN) stating that public convenience and necessity requires or will require the installation, operation, or extension of the utility's service. The proceedings for issuing a CCN are set forth in statute and can take several months and require substantial paperwork. Combining proceedings could improve administrative efficiency. This bill:

Requires PUC to consolidate the proceeding on an application to obtain or amend a CCN for the construction of a transmission line with the proceeding on another application to obtain or amend a CCN for the construction of a transmission line if it is apparent from the applications or a motion to intervene in either proceeding that the transmission lines that are the subject of the separate proceedings share a common point of interconnection.

Does not apply to a proceeding on an application for a CCN for a transmission line to serve a competitive renewable energy zone as part of a plan developed by PUC to construct transmission capacity necessary to serve electric customers.

Prohibits an electric utility or other person from directly or indirectly providing service to the public under a franchise or permit unless the utility or other person first obtains from PUC a certificate that states that the public convenience and necessity requires or will require the installation, operation, or extension of the service.

Authorizes a CCN to be granted to an electric utility or other person for a facility used as part of the transmission system serving the Electric Reliability Council of Texas (ERCOT) power region solely for the transmission of electricity.

Authorizes PUC to consider an application filed by a person not currently certificated as an electric utility for a CCN to construct transmission capacity that serves the ERCOT power region.

Sets forth criteria for PUC to consider when granting an electric utility or other person an ERCOT transmission CCN.

Authorizes an electric utility or other person that wants to exercise a right or privilege under a franchise or permit that the utility or other person anticipates obtaining but has not been granted to apply to PUC for a preliminary order.

Authorizes PUC to issue a preliminary order declaring that PUC, on application and under PUC rules, will grant the requested CCN on terms PUC designates, after the electric utility or other person obtains the franchise or permit.

Requires PUC to grant the CCN on presentation of evidence satisfactory to PUC that the electric utility or other person has obtained the franchise or permit.

Authorizes PUC to grant a CCN for a new transmission facility to a qualified applicant that meets the requirements.

Competition in the Southwestern Electric Power Company Service Area—S.B. 547

by Senator Eltife—House Sponsor: Representative Hughes

Currently, all of the Southwestern Electric Power Company's service area is located outside of the Electric Reliability Council of Texas (ERCOT) and within the Southwest Power Pool (SPP). The Public Utility Commission of Texas (PUC) has determined that the SPP is not ready to support electric utility competition, and that certain criteria will determine when full retail competition can begin in this area. These criteria include the establishment of an

independent transmission operator, a balancing energy market, a market based congestion management system, and market protocols. Furthermore, continued support of a customer choice pilot program and demonstration of fair competition and reliable service is required within each defined customer class. This bill:

Amends Chapter 39 (Restructuring of Electric Utility Industry), Utilities Code, by adding Subchapter K (Transition to Competition for Certain Areas Outside of ERCOT).

Applies to an investor-owned electric utility that is operating solely outside of ERCOT in areas of this state that were included in the SPP on January 1, 2008; that was not affiliated with the Southeastern Electric Reliability Council on January 1, 2008; and to which provisions for certain other non-ERCOT utilities do not apply.

Provides that until the date on which an electric utility is authorized by PUC to implement retail customer choice, the rates of the utility are subject to regulation under Chapter 36 (Rates), Utilities Code.

Provides that until the date on which an electric utility implements customer choice, the provisions of Chapter 39, other than Subchapter K and provisions relating to goals for renewable energy and energy efficiency, do not apply to that utility.

Establishes a sequence of required events, in five prescribed stages, to be followed to introduce retail competition in the electric utility's service area.

Authorizes PUC to modify the required sequence of events but not the substance of the requirements.

Prohibits full retail competition from beginning in the service area of an electric utility subject to Subchapter K until all prescribed actions are complete.

Recovery of System Restoration Costs—S.B. 769

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

Current law requires an electric utility to file a general rate case to recover the extraordinary costs of restoring its electric system and service following a hurricane, tropical storm, ice or snow storm, flood, or other major weather-related event. An electric utility that seeks to establish or replenish self-insurance reserves that are adequate to cover some or all of its costs following a hurricane or other major weather-related event can do so only in the course of a general rate case proceeding. The purpose of this bill is to enable an electric utility to obtain timely recovery of system restoration costs and to use securitization financing to recover these costs, because that type of debt will lower the carrying costs associated with the recovery of these costs, relative to the costs that would be incurred using conventional financing methods. This bill:

Amends Chapter 36 (Rates), Utilities Code, by adding Subchapter I (Securitization for Recovery of System Restoration Costs).

Authorizes the proceeds of transition bonds to be used only for the purposes of reducing the amount of recoverable system restoration costs, as determined by the Public Utility Commission of Texas (PUC), including the financing or retirement of utility debt or equity.

Requires that system restoration costs include carrying costs at the utility's weighted average cost of capital as last approved by PUC in a general rate proceeding from the date on which the system restoration costs were incurred until the date that transition bonds are issued or until system restoration costs are otherwise recovered.

Requires that those amounts, to the extent a utility receives insurance proceeds, governmental grants, or any other source of funding that compensate it for system restoration costs, be used to reduce the utility's system restoration costs recoverable from customers.

Requires PUC, if the timing of a utility's receipt of those amounts prevents their inclusion as a reduction the system restoration costs that are securitized, or PUC later determines as a result of the true-up and reconciliation that the actual costs incurred are less than estimated costs included in the determination of system restoration costs, to take those amounts into account in the utility's next base rate proceeding or any subsequent proceeding, other than a true-up proceeding, in which PUC considers system restoration costs.

Authorizes PUC, if PUC determines that the insurance proceeds, governmental grants, or other sources of funding that compensate the electric utility for system restoration costs, or the amount resulting from a true-up of estimated restoration costs are of a magnitude to justify a separate tariff rider, to establish a tariff rider to credit such amounts against charges, other than transition charges or system restoration charges, being collected from customers.

Requires PUC, to the extent that the utility receives insurance proceeds, governmental grants, or any other source of funding that is used to reduce system restoration costs, to impute interest on those amounts at the same cost of capital included in the utility's system restoration costs until the date that those amounts are used to reduce the amount of system restoration costs that are securitized or otherwise reflected in the rates of the utility.

Provides that certain procedures and standards govern an electric utility's application for, and PUC's issuance of, a financing order to provide for the securitization of system restoration costs, or to otherwise provide for the recovery of system restoration costs.

Requires PUC, subject to certain standards, procedures, and tests to adopt a financing order on the application of the utility to recover its system restoration costs.

Requires PUC, if on its own motion or complaint by an affected person, PUC determines that it is likely that securitization of system restoration costs would meet certain tests to require the utility to file an application for a financing order.

Requires that system restoration costs be functionalized and allocated to customers in the same manner as the corresponding facilities and related expenses are functionalized and allocated in the utility's current base rates.

Requires that, for an electric utility operating within the Electric Reliability Council of Texas, system restoration costs that are properly includable in the transmission cost of service mechanism adopted and certain associated deferred costs be recovered under the method of pricing and PUC rules promulgated thereunder; provided that an electric utility operating under a rate freeze or other limitation on its ability to pass through wholesale costs to its customers is authorized to defer such costs and accrue carrying costs at its weighted average cost of capital as last approved by PUC in a general rate proceeding until such time as the freeze or limitation expires.

Prohibits the amount of any accumulated deferred federal income taxes offset, used to determine the securitization total, from being considered in future rate proceedings.

Requires that any tax obligation of the electric utility arising from its receipt of securitization bond proceeds, or from the collection and remittance of transition charges, be recovered by the electric utility through PUC's implementation of Subchapter I.

Entitles an electric utility, notwithstanding a rate freeze or limitations on an electric utility's ability to change rates or by a regulatory authority, to recover system restoration costs consistent with the provisions of Subchapter I.

Requires PUC, if in the course of a proceeding to adopt a financing order PUC determines that the recovery of all or any portion of an electric utility's system restoration costs, using securitization, is not beneficial to ratepayers of the electric utility, under one or more of the tests applied to determine those benefits, to nonetheless use the proceeding to issue an order permitting the electric utility to recover the remainder of its system restoration costs through an appropriate customer surcharge mechanism, including carrying costs at the electric utility's weighted average cost of capital as last approved by PUC in a general rate proceeding, to the extent that the electric utility has not securitized those costs.

Requires that a rate proceeding under Subchapter C (General Procedures for Rate Changes Proposed by Utility) or D (Rate Changes Proposed by Regulatory Authority) not be required to determine and implement this surcharge mechanism.

Requires a rider or surcharge mechanism, on the final implementation of rates resulting from the filing of a rate proceeding under Subchapter C or D that provides for the recovery of all remaining system restoration costs, to expire.

Requires PUC to include terms in the financing order to ensure that the imposition and collection of transition charges associated with the recovery of system restoration costs are nonbypassable by imposing restrictions on bypassability or by alternative means of ensuring nonbypassability, as PUC considers appropriate, consistent with the purposes of securitization.

Entitles an electric utility to recover system restoration costs consistent with the provisions of Subchapter I and is entitled to seek recovery of amounts not recovered under this subchapter, including system restoration costs not yet incurred at the time an application is filed, in its next base rate proceeding or through any other authorized proceeding.

Requires PUC to issue an order determining the amount of system restoration costs eligible for recovery and securitization not later than the 150th day after the date an electric utility files its application and to issue a financing order not later than 90 days after the utility files its request for a financing order and until PUC has determined the amount of system restoration costs eligible for recovery and securitization.

Provides that a previous PUC determination does not preclude the utility from requesting recovery of additional system restoration costs eligible for recovery under Subchapter I, but not previously authorized by PUC.

Prohibits a rate proceeding under Subchapter C or D from being required to determine the amount of recoverable system restoration costs or for the issuance of a financing order.

Provides that a PUC order under Subchapter I is not subject to rehearing and authorizes a PUC order to be reviewed by appeal only.

Retail Electric Competition in the SERC Service Area and Cost Recovery—S.B. 1492

by Senator Williams—House Sponsor: Representative Ritter

During recent hurricanes, some areas of Texas far removed from any storm damage still suffered prolonged periods without electrical power. In some of these areas, nearby electricity providers potentially could have provided temporary relief to those customers affected by power outages. However, regulatory issues precluded such assistance.

The 79th Legislature, Regular Session, 2005, enacted H.B. 1567, which put Energy Gulf States, Inc. (EGSI), on a path toward introducing retail electric competition in the Southeastern Electric Reliability Council (SERC) service

territory in Texas and setting milestones along the path. One of those milestones was the filing of a transition to competition plan (plan) at the Public Utility Commission of Texas (PUC) not later than January 1, 2007. Among other things, the plan calls for the creation of EGSI-Texas, a separate, Texas-only utility, the integration of EGSI-Texas into the Electric Reliability Council of Texas (ERCOT), and the introduction of retail electric competition in EGSI-Texas territory. The plan estimates that its implementation would increase the retail rates of EGSI's residential customers and the transmission rates in ERCOT to a point where the costs could outweigh the benefits. Additionally, EGSI and the electric cooperatives operating within its service territory would be required to make difficult and expensive long-term decisions regarding the planning, contracting for, and/or construction of generation and transmission facilities. This bill:

Provides that certain sections apply only to an electric utility that operates solely outside of ERCOT in areas of this state included in SERC, the Southwest Power Pool, or the Western Electricity Coordinating Council and that owns or operates transmission facilities.

Authorizes PUC, on a declaration of a natural disaster or other emergency by the governor, to require an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale generator, or power marketer to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to the natural disaster or other emergency.

Authorizes PUC to order an electric utility, municipally owned utility, or electric cooperative to provide interconnection service to another electric utility, municipally owned utility, or electric cooperative to facilitate a sale of electricity during a declared emergency.

Requires the receiving entity, if an entity receives electricity during a declared emergency, to reimburse the supplying entity for the actual cost of providing the electricity.

Authorizes an entity that pays for such electricity and that is regulated by PUC to fully recover the cost of the electricity in a timely manner by including the cost in the entity's fuel cost or imposing a different surcharge.

Requires an electric utility subject to Subchapter J (Transition to Competition in Certain Non-ERCOT Areas), Utilities Code, to propose a competitive generation tariff to allow eligible customers the ability to contract for competitive generation.

Requires PUC to approve, reject, or modify the proposed tariff not later than September 1, 2010.

Requires PUC to ensure that a competitive generation tariff shall not be implemented in a manner that harms the sustainability or competitiveness of manufacturers that choose not to take advantage of competitive generation.

Requires an electric utility, pursuant to the competitive generation tariff, to purchase competitive generation service, selected by the customer, and provide the generation at retail to the customer.

Requires an electric utility to provide and price retail transmission service, including necessary ancillary services, to retail customers who choose to take advantage of the competitive generation tariff at a rate that is unbundled from the utility's cost of service.

Prohibits such customers from being considered wholesale transmission customers.

Prohibits PUC from issuing a decision relating to a competitive generation tariff that is contrary to an applicable decision, rule, or policy statement of a federal regulatory agency having jurisdiction.

Requires an electric utility, notwithstanding any other provision of Chapter 39 (Restructuring of Electric Utility Industry), Utilities Code, if PUC has not approved the transition to competition plan before January 1, 2009, to cease all activities relating to the transition to competition.

Authorizes PUC, on its own motion or the motion of any affected person, to initiate a proceeding to certify a power region when the conditions supporting such a proceeding exist.

Prohibits PUC from approving a plan until the expiration of four years from the time that PUC certifies a power region.

Requires PUC in awarding a certificate of convenience and necessity or allowing cost recovery for purchased power by an electric utility, to ensure that in its determination that the provisions requiring PUC to grant each certificate on a nondiscriminatory basis after considering environmental integrity and after considering the probable improvement of service or lowering of cost to consumers in the area are met and that the generating facility or the purchased power agreement satisfies the identified reliability needs of the utility.

Requires an electric utility operating in the SERC that is subject to traditional cost of service rate regulation and has a transition to competition plan on file with PUC, to withdraw the plan from PUC and cease all activities related to the plan not later than the 90th day after June 19, 2009.

Requires PUC to conduct and complete a study and prepare a report that evaluates the locations in this state that are most likely to experience a natural disaster or other emergency; the ability of each entity to which this bill applies to comply with provisions of this bill in the event of a natural disaster or other emergency; and any steps such an entity should take to prepare to comply with such provisions.

Adjustments Under the Public Utility Regulatory Act—S.B. 2565

by Senator Averitt—House Sponsor: Representative Hilderbran

S. B. 2565 is a "clean up" bill being presented at the recommendation of the Public Utility Commission (PUC). Its purpose is to take care of an outdated provision of the Public Utility Regulatory Act left over from the legislature's enactment of the new business tax. The legislature abolished the old tax when the new law was phased in; however, an oversight by the legislature left in place the calculation and reporting requirements to PUC under the old law. This bill:

Repeals Section 53.202 (Adjustment for Change in Tax Liability), Utilities Code.

Course Credit for Students at a Public Institution of Higher Education—H.B. 269

by Representative Lucio III et al.—Senate Sponsor: Senator Van De Putte

Higher education is vital for success in the modern economy; however, according to the latest data from the United States Census Bureau, only 25 percent of veterans have graduated from a college or university. Providing an incentive and support for veterans to pursue a college education after returning from service is an important means to help them succeed as they assimilate back into civilian life. This bill:

Requires an institution of higher education (institution) to award to an undergraduate student who is admitted to the institution, including a student who is readmitted under Section 51.9242 (Readmission of Student Who Withdraws to Perform Active Military Service), Education Code, course credit for all physical education courses required by the institution for an undergraduate degree and for additional semester credit hours, not to exceed 12, that may be applied to satisfy any elective course requirements for the student's degree program for courses outside the student's major or minor if the student meets certain requirements.

Authorizes an institution to adopt rules requiring reasonable proof from a student of the fact and duration of the student's military service and of the student's military discharge status.

Requires the Texas Higher Education Coordinating Board, in consultation with institutions, to determine a standard fee for a course offered through a Reserve Officers' Training Corps program that takes into account the average statewide cost per student to an institution in providing the program, not including any reimbursement or other amounts the institution receives from the applicable military service or other source for offering the course.

Provides that Section 51.3042, Education Code, applies to a student attending an institution, without regard to whether the student was admitted to the institution before the effective date of this Act.

Additional Periods of Possession for Returning Military Members—H.B. 409

by Representatives Heflin and Isett—Senate Sponsor: Senator Nelson

Currently there are no measures in place for parents returning from military deployment to make up for lost custodial or visitation time with their children. This bill:

Allows military personnel returning home from deployment to petition the courts for additional periods of access to or possession of their child to compensate for time lost while they were deployed.

Sets forth the authority of the court and the factors that the court is required to consider in making its determination.

Provides that the court is not required to award additional periods of possession or access to the child.

Amended Parking Privileges for Certain Veterans and Military Award Recipients—H.B. 618

by Representative Corte—Senate Sponsor: Senator Wentworth

Current law states that vehicles whose license plates have been issued to honor certain military achievements are exempt from payment of fines from parking meter violations issued by any authority other than the federal government. This bill:

Extends such parking privileges to vehicles registered to "Legion of Valor" and "Legion of Merit" recipients.

Disabled Veterans Specialty License Plates—H.B. 965

by Representative Pickett et al.—Senate Sponsor: Senator Van de Putte

Current law authorizes a disabled veteran to receive two sets of license plates and two disabled parking placards. Because many individuals own more than two vehicles, many Texans have requested that the license plate limitation be eliminated and that the option of receiving more than two license plates be made available. This bill:

Entitles a veteran of the United States armed forces to specialty license plates and disabled placards for two registered vehicles.

Entitles a veteran to register, for the person's own use, any number of motor vehicles for which the registrant may be issued specialty license plates for disabled veterans and disabled parking placards.

Installation and Regulation of Outdoor Lighting Near Military Bases—H.B. 1013

by Representatives Corte and Leibowitz—Senate Sponsors: Senators Wentworth and Van de Putte

Current law authorizes the commissioners court of a county, any part of which is located immediately adjacent to a United States military installation, base, or camp, to adopt order regulating the installation and use of outdoor lighting within five miles of the installation, base, or camp in any unincorporated territory of the county. This bill:

Provides that the authority of a commissioners court to regulate the installation and use of outdoor lighting within five miles of an installation, base, or camp applies only to a county with a population of more than one million that has at least five U.S. military bases and to any county adjacent to that county that is within five miles of a U.S. Army installation, base, or camp.

Titles for Certain Officers of a Defense Base Development Authority—H.B. 1345

by Representative Menendez—Senate Sponsor: Senator Uresti

Current legislation refers to leaders of defense base development authorities as presidents and vice-presidents. Many defense base development authorities, however, use the terms chairmen and vice-chairmen to reference the same positions. This bill:

Allows members of a board to elect from its membership either a president and vice-president or a chairman and vice-chairman.

Provides that regulations and duties required of presidents and vice-presidents are equally required of chairmen and vice-chairmen.

Job Training and Employment Assistance Programs—H.B. 1452

by Representative Eissler et al.—Senate Sponsor: Senator Van De Putte

Currently, when a veteran attempts to access employment services within an integrated system funded by both state and federal sources, confusion often results because the federal and state definitions of "veteran" are different. This bill:

Authorizes the Texas Veterans Commission (TVC) to provide services to enhance the employment and training opportunities of veterans, covered persons, active duty service members, spouses of active duty service members, and members of the Texas National Guard.

Requires TVC to operate programs funded under 38 U.S.C. Chapters 41 and 42.

Authorizes a covered person to take precedence in obtaining services or resources over persons who are not covered persons.

Requires that priority of service be given to a covered person who meets the minimum eligibility requirements to participate or enroll in the program or receive the service in selecting applicants to receive training or assistance under a job training or employment assistance or service that is funded wholly or partly with state money.

Authorizes TVC to adopt rules necessary for implementation.

Theft of a Military Grave Marker—H.B. 1466

by Representative Swinford—Senate Sponsor: Senator Seliger

Over the past few years, there has been a disturbing trend in the disappearance of bronze and cast-iron grave markers from veterans' graves across the United States. In Texas, some of these grave markers are placed on the graves of soldiers who fought in World War I, World War II, the Korean War, the Vietnam War, and the Gulf Wars. The stolen markers are reappearing at military and gun show tables where they are sold for easy money. Currently, it is a state jail felony to vandalize a grave in Texas. However, some ambiguity has arisen as to whether it would be a state jail felony to steal a grave marker. This bill:

Provides that, except as provided by Section 31.03(f) (relating to an offense described for purposes of punishment by Subsections (e)(1)-(6) is increased to the next higher category of offense under certain conditions), Penal Code, an offense is a state jail felony if, regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker.

Vietnam Veterans Day—S.B. 1903

by Senators Hinojosa and Van de Putte—House Sponsor: Representative Corte, et al.

Currently there is no official day honoring the service of the troops who fought in the Vietnam War. This bill:

Provides that March 29th is Vietnam Veterans Day, an official day of honor for those who served in the Vietnam War.

Requires that Vietnam Veterans Day be regularly observed by appropriate ceremonies.

Parking Privileges for Veterans With Disabilities—H.B. 2020

by Representative Weber et al.—Senate Sponsor: Senator Mike Jackson

According to the Transportation Code, all vehicles displaying in-state or out-of-state "disabled" license plates are eligible for disabled parking privileges. However, only vehicles displaying in-state "disabled veteran" license plates are eligible for those same privileges. This bill:

Authorizes a vehicle to be parked for an unlimited period in a parking space or area that is designated specifically for persons with physical disabilities if the vehicle displays, special license plates issued under Section 504.202 (Government-Owned Vehicles; Public School Buses; Fire-Fighting Vehicles; County Marine Law Enforcement Vehicles), Transportation Code, or displays license plates issued by another state of the United States that indicate on the face of the license plates that the owner or operator of the vehicle is a disabled veteran of the United States armed forces.

Provides that a vehicle on which license plates described by Section 681.008(a)(2) (relating to license plates displayed by a veteran of the United States armed forces), Transportation Code, or issued under Sections 504.202 or Section 504.315(c) (relating to requiring the Texas Department of Transportation (TxDOT) to issue specialty license plates for a person who was captured and incarcerated by an enemy of the United States), (d) (relating to requiring TxDOT to issue specialty license plates for survivors of the attack on Pearl Harbor on December 7, 1941), (e) (relating to requiring TxDOT to issue specialty license plates to a recipient of a Congressional Medal of Honor awarded under Title 10, United States Code), or (g) (relating to requiring TxDOT to issue specialty license plates for recipients of the Purple Heart), Transportation Code, are displayed is exempt from the payment of a parking fee collected through a parking meter charged by a governmental authority other than a branch of the federal government, when being operated by or for the transportation of the owner or operator of a vehicle displaying license plates described by Section 681.008(a)(2), Transportation Code.

Establishment of a Veterans Hospital in the Rio Grande Valley Region—H.B. 2217

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

The United States Department of Veterans Affairs (VA) finalized contracts with Valley Baptist Health System in Cameron County and with South Texas Health System in Hidalgo County to provide inpatient, surgical, emergency, and mental health services to veterans enrolled in the VA benefits program. However, there is still a need for a full-fledged veterans hospital. The nearest hospital is approximately 300 miles away in San Antonio, which is prohibitive for some patients. This bill:

Requires the Texas Veterans Commission and the Department of State Health Services to work with the United States Department of Veterans Affairs and any other appropriate federal agency to propose that the federal government establish a veterans hospital in the Rio Grande Valley region of the state.

Authorizes the state to contribute money, property, and other resources to the establishment, maintenance, and operation of a veterans hospital described.

Transfer of State Property from DADS to the Veterans' Land Board—H.B. 2728

by Representative Charlie Howard—Senate Sponsor: Senator Hegar

Since the legislature authorized the construction of four veterans' homes in 1997, seven homes have opened in Texas, in Temple, Floresville, Big Spring, Bonham, McAllen, El Paso, and Amarillo. In cooperation with the Department of Veterans' Affairs, these homes offer Texas veterans, their spouses, and Gold Star Parents skilled-care nursing facilities. This bill:

Requires the Department of Aging and Disability Services (DADS), not later than November 1, 2010, to transfer to the Veterans' Land Board (VLB) certain real property, provided that VLB has determined that the property is suitable for its intended purpose.

Provides that if VLB no longer uses the property for a purpose that benefits the public interest of the state, ownership of the property automatically reverts to DADS.

Requires DADS to transfer the property by an appropriate instrument of transfer, executed on its behalf by the Commissioner of the General Land Office (commissioner).

Requires that the transfer include all mineral rights and interests in the real property, and the easements over, under, and on the land owned or controlled by DADS that is adjacent to the real property as the commissioner determines

are reasonably necessary for the beneficial use of the real property, provided the easements do not unreasonably interfere with the use of the adjacent property by DADS.

Regulating Land Use to Develop Military Installations—H.B. 2919

by Representatives King and Vaught—Senate Sponsor: Senator Fraser

Current law provides general guidelines for the use of land directly surrounding a military installation. However, no measures are in place to dictate the process by which a military base can develop such land. This bill:

Requires that ordinances or plans proposed for defense communities be reviewed and analyzed by defense base authorities before implementation.

Prohibits defense communities from making final determinations on a plan until 31 days after an analysis is requested in order to provide adequate time to complete the review process.

Requires that all requests received by a defense community be subject to the same review and analysis and provides that final determinations may not be made until the fifth business day after the request for analysis has been made.

Establishes extenuating circumstances for the sake of safety as exceptions to the review process and subsequent wait period.

Reports legislative findings pertaining to the use and development of land immediately surrounding military installations and determines the purpose of maintaining such land.

Sets forth rules compatible development options and rules regarding applicability for land surrounding military installations.

Defines the powers and responsibilities of regional military sustainability commissions (commissions) and sets forth guidelines regarding their creation, funding, and expiration in the event the military installation for which they work is closed.

Requires that any development plans for areas immediately surrounding a defense community coordinate with plans for the surrounding counties and municipalities located in the region and that no plan conflicts with other laws governing the area.

Grants landowners the right to contest decisions made by the commissions in the court system and upholds the court's right to modify the plans of the commission.

Discount Programs for Certain Veterans—H.B. 3139

by Representatives Herrero and Guillen—Senate Sponsor: Senator Van De Putte

Currently, many disabled armed forces veterans receive frequent medical care from facilities operated by the United States Department of Veterans Affairs. These facilities are often located a considerable distance from the veteran's residence. As a result, veterans incur a significant financial burden in attempting to receive necessary medical care. This bill:

Authorizes a toll project entity to establish a discount program for electronic toll collection customers.

Requires that the program include free or discounted use of the entity's toll project by an electronic toll collection customer whose account relates to a vehicle registered under Section 504.202 (Veterans with Disabilities), under Section 504.315(g) (relating to issuance of license plates), Transportation Code, or by a person who has received the Medal of Honor.

Authorizes the legislature to appropriate funds from the general revenue fund to a toll project entity to defray the cost of providing free or discounted use of the entity's toll project.

Creation of Housing Communities for Veterans—H.B. 3358

by Representative Sylvester Turner et al.—Senate Sponsor: Senator Shapleigh

Housing authorities throughout Texas work to enhance the lives of millions of people by providing quality affordable housing to the most vulnerable members of society. Presently, there is a great need for housing for veterans who served on active duty in the armed forces of the United States or in the state military forces. This bill:

Authorizes a county or municipal housing authority (authority) in a county with a population of more than 500,000 to borrow money, accept grants, and exercise its powers to provide safe and sanitary housing communities for veterans.

Authorizes an authority, as the authority considers necessary to achieve the purposes of this chapter, to enter into a lease or purchase agreement or accept a conveyance regarding real property as part of a housing project that will benefit veterans.

Authorizes the agreement or conveyance to include any restrictive covenants that the authority considers appropriate regarding the property.

Provides that as the authority considers necessary and on the stipulation of the parties, the covenants run with the property.

Provides that a county or municipal housing authority is not subject to the limitations in Section 392.014 (Area of Operation of a Municipal Housing Authority), 392.015 (Area of Operation of a County Housing Authority), or 392.017 (Operation of Housing Authority in Other Political Subdivisions), Local Government Code, with respect to a housing project that benefits veterans.

Establishment of the Texas Armed Services Scholarship—H.B. 3452

by Representative Gattis et al.—Senate Sponsor: Senators Ogden and Dan Patrick

The Reserve Officer Training Corps (ROTC) is a college elective program that enables students to become commissioned officers in the United States armed forces. ROTC programs are conducted at senior military colleges, civilian colleges, and military junior colleges. Other than the United States Coast Guard, every branch of the armed forces commissions officers through ROTC. This bill:

Requires the Texas Higher Education Coordinating Board (THECB) to establish and administer, in accordance with THECB rules, the Texas Armed Services Scholarship Program under which THECB provides an annual conditional scholarship to a student who meets the eligibility criteria prescribed by Section 61.9772, Education Code, and is appointed to receive a scholarship.

Provides that the amount of a scholarship in an academic year is the lesser of \$15,000 or the amount available for each scholarship from appropriations that may be used for scholarships for that academic year.

Requires that a student, to receive an initial scholarship, meet certain criteria.

Authorizes the governor and lieutenant governor, in each year, to appoint two students and each state senator and each state representative to appoint one student to receive an initial scholarship.

Requires a student, for the student to continue to receive a scholarship awarded, to maintain satisfactory academic progress as determined by the institution in which the student is enrolled.

Requires a student, to receive a scholarship, to enter into an agreement with THECB and requires that the agreement require the student to meet certain conditions.

Requires THECB to adopt rules to exempt a student from the repayment of a scholarship under an agreement entered into if the student is unable to meet the obligations of the agreement solely as a result of physical inability.

Prohibits a person from receiving a scholarship after earning a cumulative total of 150 credit hours or after being awarded a baccalaureate degree, whichever occurs first.

Relating to the Issuance of License Plates to Disabled Veterans—H.B. 3593

by Representative McReynolds et al.—Senate Sponsor: Senator Van de Putte

Disabled veterans who qualify for disabled veteran license plates receive them at a reduced cost of \$3. However, some of these veterans do not wish to purchase the disabled veteran license plates because they do not want to advertise on their vehicles that they are disabled. Under current law, these veterans are required to pay full price if they wish to purchase standard license plates, even though they qualify for reduced cost disabled veteran license plates. This bill:

Authorizes a person entitled to license plates for disabled veterans to elect to receive standard license plates at the same cost as the disabled veteran license plates.

Memorial Marker Funding for the Veterans Memorial Highway—H.B. 3844

by Representative Wayne Smith—Senate Sponsor: Senator Williams

Current law designating Spur 330 as the Veterans Memorial Highway provides that private funding must be used to fund the design and construction of memorial markers for the highway. The Texas attorney general ruled that "private funds" meant no government funds could be used for the approximately \$16,000 signage cost. This precludes the City of Baytown from funding the cost. It also precludes the city from accepting donations since the attorney general ruled that once the donations are made they become "public funds." This bill:

Provides that the Texas Department of Transportation (TxDOT) is not required to design, construct, or erect a marker unless a grant or donation of public funds, private funds, or both is made to TxDOT to cover the cost of the design, construction, and erection of the marker.

Qualifications for a Veterans County Service Officer—H.B. 3872

by Representative Gattis—Senate Sponsor: Senator Estes

Current law provides for the creation of a veterans county service office and sets forth the qualifications a person must possess to be appointed as a veterans county service officer. In addition to other statutory requirements, a

person must either have certain military service experience, or be a widowed Gold Star Mother or un-remarried widow of a serviceman or veteran whose death resulted from service. This bill:

Requires that to be appointed as an officer a person must have the service experience specified by Section 434.033(c) (relating to requiring a person, in order to meet the certain required service experience, to have served on active duty in a certain branch for at least four months or have a service-connected disability and been honorably discharged), Government Code, or be the spouse of a disabled veteran who has a total disability rating based either on having a service-connected disability with a disability rating of 100 percent or on individual unemployability, among other circumstances.

Authorizing State Contributions to Texas Veterans Hospitals—H.J.R. 7

by Representative Flores et al.—Senate Sponsor: Senators Hinojosa and Lucio

In February 2009, the United States Department of Veterans Affairs (VA) finalized contracts with the Valley Baptist Health System in Harlingen and the South Texas Health System in Hidalgo County to provide inpatient, surgical, emergency, and mental health services to veterans enrolled in VA benefit programs. While this is positive news for Rio Grande Valley veterans, there is still a vital need for a full-fledged veterans hospital. The nearest VA hospital is in San Antonio, and rising travel costs make the 300-mile trip too costly for many patients. This resolution:

Requires the proposed constitutional amendment to be submitted to the voters at an election to be held November 3, 2009, to authorize the state to contribute money, property, and other resources for the establishment, maintenance, and operation of veterans hospitals in this state.

Sets forth the required language of the ballot.

Authorizing the Issuance of General Obligation Bonds—H.J.R. 116

by Representative Corte—Senate Sponsor: Senator Van De Putte

Currently, the Veterans Land Board of the State of Texas (VLB) has approximately \$80 million of unused general obligation bonding authority, which can be used by either the Veterans Housing Assistance Program (VHAP) or the Veterans Land Program (VLP). VLB expects the remaining authorization to last through the end of 2009; from that point forward VLB will need new bonding authority to continue to issue QVMBs to fund loans in VHAP (and to issue new VLP bonds, if necessary). This resolution:

Requires the proposed constitutional amendment to be submitted to the voters at an election to be held November 3, 2009, to:

- Authorize VLB to provide for, issue, and sell general obligation bonds of the state for the purpose of selling land to veterans of the state or providing home or land mortgage loans to veterans of the state in a principal amount of outstanding bonds that is required at all times to be equal to or less than the aggregate principal amount of state general obligation bonds previously authorized for those purposes by prior constitutional amendments.
- Prohibit bonds and other obligations issued or executed from being included in the computation required by Section 49-j (Limit on State Debt Payable From General Revenue Fund), Texas Constitution.
- Require that the bond proceeds be deposited in or used to benefit and augment the Veteran's Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II, as determined appropriate by VLB, and be administered and invested as provided by law.

- Require that payments of principal and interest on the bonds, including payments under a bond enhancement agreement with respect to principal of or interest on the bonds, be made from the sources and in the manner provided for general obligation bonds issued for the benefit of the applicable fund.

Deletes existing text in Section 49-b(w), Article III, Texas Constitution, authorizing VLB, in addition to the general obligation bonds authorized to be issued and to be sold by VLB by the previous constitutional amendments, to provide for, issue, and sell general obligation bonds of the state to provide home mortgage loans to veterans of the state, and prohibiting the principal amount of outstanding bonds from at any one time exceeding \$500 million.

Sets forth the required language of the ballot.

Relating to Municipalities and Counties Adjacent to a Military Installation—H.J.R. 132

by Representatives Corte and Susan King—Senate Sponsor: Senator Wentworth

There are many military bases in Texas that provide tremendous economic benefits to the state, as well as to the counties and cities within which they are located. The billions of dollars in payrolls and federal investment related to these bases are in danger of being lost due to continued encroachment by development around the military installations. Municipal and county governments do not have a method to issue bonds or notes to raise revenue needed to acquire buffer areas or open spaces adjacent to military installations or to construct roadways or infrastructure to protect and promote the mission of the military installations. This resolution:

Requires the proposed constitutional amendment to be submitted to the voters at an election to be held November 3, 2009, to:

- Authorize the legislature by general law to authorize a municipality or county to issue bonds or notes to finance the acquisition of buffer areas or open spaces adjacent to a military installation for the prevention of encroachment or for the construction of roadways, utilities, or other infrastructure to protect or promote the mission of the military installation.
- Authorize the municipality or county to pledge increases in ad valorem tax revenues imposed in the area by the municipality, county, or other political subdivisions for repayment of the bonds or notes.

Sets forth the required language of the ballot.

Interstate Compact on Educational Opportunity for Military Children—S.B. 90

by Senator Van de Putte et al.—House Sponsor: Representative Geren et al.

Children of military families frequently move in accordance with the family's lifestyle. They can often face challenges in transferring student records and meeting the varying educational entrance requirements in place across the country. A number of states have adopted the Interstate Compact on Educational Opportunity for Military Children (compact) to streamline the process for these children. This bill:

Enters Texas into the compact with all other participating states.

Outlines accommodations to be made between schools to facilitate the transfer of documents and to ensure that a child does not miss important enrollment deadlines due to the lack of possession of such documents.

Requires that states honor the exit-level exam requirements of the previous state of residence when determining eligibility to move forward.

Sets forth guidelines for determining graduation eligibility for students transferring during their senior year and grants the commissioner of education the authority to adopt rules as necessary to ensure equivalent education requirements for students.

Creates a state council to coordinate among government, education, and military agencies at work in this compact.

Sets forth guidelines for implementing the compact.

Powers of the Port of Corpus Christi Authority of Nueces County, Texas—S.B. 835

by Senators Hinojosa and Zaffirini—House Sponsor: Representatives Ortiz Jr. and Herrero

In 1987, the Port of Corpus Christi Authority of Nueces County, Texas, (PCCA) conveyed 576.615 acres of land to the United States Navy for the construction and operation of Naval Station Ingleside (NSI). The deed says that this property will revert to PCCA when the property is no longer used for maritime purposes by the United States Department of Defense (DoD).

In its Base Realignment and Closure (BRAC) recommendations, DoD recommended the closure of NSI. Assuming no economic recovery, DoD estimated that this recommendation, along with the recommended realignment of Naval Air Station Corpus Christi, could result in a potential reduction of 6,864 jobs—3,184 direct jobs and 3,680 indirect jobs. NSI will close in September 2010, if not sooner. This bill:

Authorizes PCCA to use the naval property in ways that replace and enhance the economic benefits generated by Naval Station Ingleside through diversified activities, including uses to foster the creation of jobs, economic development, industry, commerce, manufacturing, housing, recreation and the installation of infrastructure on the naval property.

Authorizes PCCA to contract with another person for assistance by competitive bidding or negotiated contract as the port commission considers appropriate, desirable, and in the best interests of the authority.

Authorizes the port commission to declare any portion of the naval property not needed for a navigation-related project surplus property and to sell or lease the surplus property on terms the port commission considers advisable.

Authorizes PCCA, notwithstanding any other law, and subject to certain terms, to sell or lease surplus property with or without public bidding.

Prohibits surplus property from being sold in a private sale for less than its fair market value.

Regulation for Folding the Texas State Flag—S.B. 1145

by Senators Zaffirini and Van de Putte—House Sponsor: Representative Dunnam

Currently there is no law requiring the use of a specific method to fold the Texas state flag. This bill:

Requires that this Act be known as the Rod Welsh Act in honor of the Sergeant-at-Arms to the Texas House of Representatives who developed the method of folding the flag prescribed in this Act.

Expresses in the detail the process by which the flag of the State of Texas is to be properly folded and describes what the finished product should look like.

Provides that a folded flag should be stored in a manner that prevents tearing or soiling of the flag.

Creation of Mental Health Intervention Program for Military Veterans—S.B. 1325

by Senators Nelson and Hinojosa—House Sponsor: Representative Corte

Currently the Department of State Health Services (DSHS) does not have a program in place to deal specifically with the mental health needs of veterans. Veterans may access treatment from DSHS only if they meet the same requirements as the general public. The federal Veterans Administration provides another source from which to obtain services but not without the risk of being stigmatized by military peers regarding a diagnosis of mental illness. This bill:

Requires that DSHS develop a mental health intervention program for veterans that provides for peer-to-peer counseling.

Establishes that it is the responsibility of DSHS to solicit and train volunteers for the purpose of taking part in the peer-to-peer counseling.

Organization, Duties, and Functions of the Texas Veterans Commission—S.B. 1655

by Senator Van De Putte—House Sponsor: Representative Farias

The Texas Veterans Commission (TVC) is a state agency whose mission is to provide superior service through agency programs of claims assistance, employment services, and education that will significantly improve the quality of life of Texas veterans and their families. The fundamental ingredient to quality is a dedicated, professional, well-trained, and well-paid work force, provided at the state, local workforce development area, and county levels. This workforce and the service it provides must be readily available to the population it serves. The services must be tailored to the needs of veterans and their families. To this end, TVC must take the lead in coordinating efforts of service providers, sharing of resources, providing innovative and effective training, and developing a partnership with other levels of government to achieve the highest quality of service in assisting the veterans, their families, and their survivors.

Recently, TVC grew from fewer than 100 employees to more than 300, growth which included the addition of two programs. It is because of this growth that it is necessary to make modifications to enable changes that would allow TVC to meet the added responsibilities of the additional staff and programs. This bill:

Provides that information received by TVC that is confidential under Chapter 552 (Public Information), remains confidential regardless of the format in which TVC maintains the information.

Provides that the fund for veterans' assistance (fund) is composed of money transferred to the fund from proceeds of the lottery game operated under Section 466.027, Government Code, or transferred to the fund under Section 466.408(b), Government Code.

Requires the Texas Lottery Commission (lottery commission) to operate an instant-ticket lottery game to benefit the fund established by Section 434.017, as amended by Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular Session, 2007.

Authorizes TVC to make recommendations to the lottery commission relating to the marketing and advertising of the game.

Provides that no organization that would otherwise be eligible to receive funds from the state lottery account attributable to any authorized lottery game is authorized to receive any such funds if it conducts illegal gambling or the illegal operation of gambling devices as defined by Chapter 47 (Gambling), Penal Code, or allows illegal gambling or the illegal operation of gambling devices to be conducted on its property or in its facilities.

Authorizes money in the state lottery account to be used only for certain purposes and requires that it be distributed in a certain manner.

Requires that the prize money, if a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, be used in a certain order of priority.

Requires the lottery commission to establish and begin selling tickets to the lottery game as required by Section 466.027, Government Code, not later than March 2, 2010.

Funding Stream for Fund for Veterans' Assistance/"Veterans Courts"—S.B. 1940

by Senator Van de Putte et al.—House Sponsor: Representative Ortiz

Past legislation created the Fund for Veterans' Assistance (fund) which is set up separately from the general revenue fund and is administered by the Texas Veterans Commission (TVC.) At present there is no program in place that administers rehabilitation or other services often mandated by the courts based on the unique needs of veterans. Similarly, there is no program which seeks to provide sentencing options for military personnel whose experiences may have played a part in the commission of a non-violent criminal offense. This bill:

Allows the TVC to solicit and accept gifts, grants, and other donations of time and money to promote the work of TVC.

Permits TVC to establish and operate an affiliated non-profit organization to be used for the purpose of fund-raising.

Sets forth ways in which a person is entitled to contribute money to the fund.

Establishes a pretrial veterans court program which provides addiction treatment and mental health services to veterans who are charged with crimes related to injury sustained while serving in the military and directs courts on how to handle such cases.

Sets forth the duties of a veterans court program

Assigns the responsibility of oversight for the program to a legislative committee selected by the lieutenant governor and the speaker of the house of representatives.

Establishes the right for a veteran court program to collect reasonable fees from its participants.

Authorizes a veteran to have an arrest expunged from the veteran's record following the completion of a pretrial intervention.

Monument Dedicated to State Military Members Who Died in Combat—S.B. 2135

by Senators Lucio and Zaffirini—House Sponsor: Representative Pena

The Texas State Cemetery showcases a number of monuments dedicated to military service including a Purple Heart monument, a Vietnam memorial, and one commemorating the September 11, 2001, terrorist attacks and the subsequent Operation Enduring Freedom mission. However, at present there is no memorial honoring Texas Servicemen and women who died in combat. This bill:

Assigns the State Cemetery Committee to erect a flagpole and appropriate monument in the military monument area of the cemetery to commemorate military personnel from the state of Texas who were killed while serving in a combat zone.

Requires the Texas Veterans' Commission to notify the State Cemetery Committee upon receiving word of the death of any member of the United States armed forces from Texas while serving in combat.

Access by the Texas Veterans Commission to Criminal History Information—S.B. 2163

by Senator Ellis—House Sponsor: Representative Rios Ybarra

Currently, the Texas Veterans Commission (TVC) has no authority to obtain criminal history record information on its employees. If TVC is to remain compliant with the Department of Veterans Affairs security requirements it must have the ability to obtain criminal history record information. This bill:

Entitles the Texas Veterans Commission (TVC) to obtain from the Department of Public Safety of the State of Texas (DPS), the Federal Bureau of Investigation (FBI) Criminal Justice Information Identification Division (identification division), or another law enforcement agency criminal history record information maintained by DPS, the FBI identification division, or the agency that relates to a person who is an employee or an applicant for employment with TVC; is a consultant, intern, or volunteer for TVC or an applicant to serve as a consultant, intern, or volunteer; proposes to enter into a contract with or has a contract with TVC to perform services for or supply goods to TVC; or is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to TVC.

Requires TVC to destroy criminal history record information obtained after the information is used for the purposes authorized.

Provides that the failure or refusal to provide the following on request constitutes good cause for dismissal or refusal to hire: a complete set of fingerprints, a true and complete name, or other information necessary for a law enforcement entity to provide a criminal history record

Clarifying Statutory Modifications to OIEC Enabling Statute—H.B. 673

by Representative Solomons—Senate Sponsor: Senator Watson

The Office of Injured Employee Counsel (OIEC) was established by legislation in 2006 to represent the interests of and provide services to all unrepresented injured employees who request assistance. OIEC identified issues that may be addressed by amending the agency's enabling statute. This bill:

Authorizes the injured employee public counsel to refuse to provide or terminate the services of OIEC to any claimant who is abusive or violent to or who threatens any employee of OIEC, who requests assistance in claiming benefits not provided by law, or who commits or threatens to commit a criminal act in pursuit of a workers' compensation claim.

Authorizes OIEC, through the ombudsman program, to appear before the commissioner of workers' compensation, the workers' compensation division of the Texas Department of Insurance (TDI), or the State Office of Administrative Hearings to provide assistance to an injured employee during a workers' compensation administration dispute resolution process or during an enforcement action by TDI or the division of workers' compensation of TDI against an employee for a violation of the Texas Workers' Compensation Act.

Amends current law relating to notice of injured employees' rights and responsibilities, confidentiality requirements applicable to certain communications between OIEC employees and claimants, and access by OIEC to certain confidential information of TDI or other executive agencies.

Parents Eligible to Receive Workers' Compensation Death Benefits—H.B. 1058

by Representative Solomons—Senate Sponsor: Senator Lucio

In 2007, the 80th Legislature, Regular Session, amended the law relating to workers' compensation death benefits. The amendment added surviving eligible parents of a deceased worker to the list of persons authorized to receive workers' compensation death benefits. The amendment defined "eligible parent," which included language requiring that the parent also receive burial benefits. The statute required the eligible parent to make a claim for the death benefits not later than the first anniversary after the injured employee's death. If the eligible parent did not make a claim for the death benefits by the first anniversary of the death, the parent would be required to submit proof of a compelling reason for the delay. This bill:

Deletes existing text in the definition of eligible parent that requires that the parent receive burial benefits.

Provides that failure to file a claim in the time required bars the claim unless good cause exists for the failure.

Deletes existing text authorizing the commissioner of workers' compensation to extend the time for filing a claim only if the eligible parent submits proof satisfactory to the commissioner of a compelling reason for the delay.

Information Provided to Treating Doctor in Workers' Compensation Claim—H.B. 2547

by Representative Giddings—Senate Sponsor: Senator Deuell

Studies have shown a correlation between the length of time an injured employee is away from work during a workers' compensation claim and the loss of earning power of the employee—the longer an injured employee is away from work, the more difficult it is for the employee to resume his or her job. Treating physicians may be able to facilitate an injured employee's return to employment if they are aware of the condition of the job. This bill:

Authorizes the treating doctor to request that the injured employee's employer provide the treating doctor with certain information concerning the functions and physical responsibilities of an injured employee's job.

Requires the commissioner of workers' compensation to prescribe a form including certain information from an employer to a treating doctor.

Time Period for Filing Certain Utilization Review Determinations—H.B. 3625

by Representative Elkins—Senate Sponsor: Senator Van de Putte

Current law requires medical providers and utilization review agents to issue and transmit a determination regarding the preauthorization of proposed health care services under a workers' compensation claim within a certain time period; however, the method used to determine the time period differs between in-network and non-network claims. This bill:

Requires the determination indicating whether proposed health care services are preauthorized to be issued and transmitted not later than the third working, rather than calendar, day after the date the request is received.

Retrospective Utilization Review and Review of Experimental Treatment—H.B. 4290

by Representative Smithee—Senate Sponsor: Senator Duncan

Currently, consumers are entitled to an independent review of their insurance carrier's decision to deny treatment based on the determination by the carrier that the treatment is not medically necessary. However, current law does not address the independent review of a denial of treatment by a carrier based on the fact that it is experimental or investigational. Furthermore, the law does not provide for an independent review of a carrier's denial of treatment based on the determination that it was not medically necessary after the treatment has already been administered. This bill:

Redefines "utilization review" as a system for prospective, concurrent, or retrospective review of the medical necessity and appropriateness of health care services and as a system for prospective, concurrent, or retrospective review to determine the experimental or investigational nature of health services.

Sets forth the procedures relating to an adverse determination issued by a utilization review agent who questions the medical necessity or appropriateness, or the experimental or investigational nature, of a health care service.

Judicial Review of Decision by Appeals Panel in Workers' Compensation Claim—H.B. 4545

by Representative Raymond—Senate Sponsor: Senator Van de Putte

The Texas Workers' Compensation Act established a dispute resolution process, which includes a benefit review conference, a contested case hearing, and an appeal to the appeals panel. The party that does not prevail has 40 days from the date the appeals panel files a decision with the workers' compensation division of the Texas Department of Insurance to file for judicial review of the dispute. This bill:

Authorizes a party to seek judicial review by filing suit not later than the 45th day after the date on which the workers' compensation division mailed the party the decision of the appeals panel, and provides that the mailing date is considered to be the fifth day after the date the decision of the appeals panel was filed.

Filing a Wage Claim by Facsimile—H.B. 762

by Representative Creighton—Senate Sponsor: Senator Eltife

Currently, the Texas Workforce Commission (TWC) is responsible for administering Chapter 61, Labor Code, which relates to the payment of wages by employers. TWC's duties under this chapter include the investigation of wage claims made by employees or former employees for wages that have not been paid. Currently, Chapter 61 allows wage claims to be filed by mail or in person. TWC expends staff resources rejecting claims received by fax, and the claimant must then refile the claim in one of the two allowable methods. Facsimile transmission is a commonly accepted and reliable method of communication that will provide greater convenience for claimants and administrative efficiencies for TWC. This bill:

Requires that a wage claim be filed in a manner and on a form prescribed by the Texas Workforce Commission (TWC) and be verified by the employee.

Authorizes the employee to file the wage claim by faxing the claim to a fax number designated by TWC or by any other means adopted by TWC by rule.

Employment Rights for Certain Individuals With Disabilities—H.B. 978

by Representative Burnam et al.—Senate Sponsor: Senator Watson

The United States Congress amended the Americans with Disabilities Act to expand protections and clarify the meaning of "disability." Current law in Texas fails to provide sufficient protection for disabled individuals. This bill:

Requires that the term "disability" be construed in favor of board coverage of individuals under provisions that prohibit employment discrimination against certain classes of individuals to the maximum extent allowed under those provisions and includes an impairment that is episodic or in remission that substantially limits a major life activity when active.

Requires that the determination of whether impairment substantially limits a major life activity be made without regard to the ameliorative effects of certain mitigating measures.

Provides that Chapter 21 (Employment Discrimination), Labor Code, does not affect the standards for determining eligibility for benefits under Title 5 (Workers Compensation) or under a state or federal disability benefit program.

Provides that nothing in Chapter 21 may be construed as the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of a disability.

Provides that an employer does not commit an unlawful employment practice by engaging in a practice that has a discriminatory effect and that would otherwise be prohibited if the employer establishes that the practice is not intentionally devised or operated to contravene prohibitions and is justified by business necessity.

Prohibits an employer from using a qualification standard, employment test, or other selection criterion based on an individual's uncorrected vision unless the standard, test, or criterion is consistent with business necessity and job-related for the position to which the standard, test, or criterion applies.

Provides that a respondent is not obligated to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual under Subsection (a) (relating to provision that it is unlawful to not make a reasonable accommodation for a person with a disability) if the individual's disability is based solely on being regarded as having an impairment that substantially limits at least one major life activity.

Clarification on Procedures, Powers, and Administration of ERS—H.B. 2559

by Representative Truitt—Senate Sponsor: Senator Duncan

The Employees Retirement System of Texas (ERS), created in 1947 by a constitutional amendment, provides several retirement programs for state employees. H.B. 2559 is intended to clarify a number of issues relating to ERS within the Government Code and Insurance Code, to update and clarify outdated language, and to modify certain administrative processes of ERS. This bill:

Authorizes a record released or received by ERS to be transmitted electronically.

Provides that venue for any action by or against ERS is in Travis County.

Provides that the statute of limitations for a claim against ERS is two years.

Establishes a 90-day waiting period for members of the employee class who retire and seek reemployment, as well as a surcharge payable by the state agency that rehires a retiree.

Authorizes sick leave and annual leave to be used only for purposes of calculating the member's or beneficiary's annuity for members hired on or after September 1, 2009.

Provides for the disposition of certain unclaimed benefits.

Authorizes ERS to issue a subpoena under certain circumstances.

Provides that a member of the employee class hired on or after September 1, 2009, is eligible to retire and receive a service retirement annuity if the member is at least 65 years old and has at least 10 years of service or has at least five years of service and the sum of the age of the member and the years of service exceed 80.

Provides for the calculation and the reduction of standard service retirement annuities for certain members, including for law enforcement and custodial officers.

Sets forth eligibility requirements for members receiving disability retirement annuities.

Requires the board of trustees of ERS to make a good faith effort to award contracts to or acquire services from qualified emerging fund managers and to exercise prudence with respect to investment decisions.

Increases the required employee contribution to ERS from six percent to 6.5 percent of payroll, with an additional 0.5 percent of payroll for law enforcement or custodial officers.

Authorizes a surviving spouse or dependent to enroll in a group health plan after the death of a member.

Repeals Government Code 838.1035(c), which limits the maximum retirement benefit of a member leaving judicial office to 80 percent of salary.

Trusts Relating to Life Insurance Policies By Employers and Labor Unions—H.B. 2690

by Representative Hancock—Senate Sponsor: Senator Mike Jackson

Current law authorizes a group life insurance policy that insures employees or labor union members to be issued to the trustees of a fund established by two or more employers or one or more labor unions, or certain combinations thereof, that are in the same or related occupations or trades. However, employers and labor unions may prefer to

adopt a trust already established by other employers, rather than create one, to avoid the time and expense of establishing a trust. This bill:

Authorizes a group life insurance policy that insures the employers' employees or the unions' members for the benefit of persons other than the employers or union to be issued to the trustees of a fund established or adopted by two or more employer or by one or more labor unions, or certain combinations thereof.

Qualification of Volunteer Support Service Staff Under TESRS—H.B. 2751

by Representative Truitt—Senate Sponsor: Senators Duncan and Hinojosa

Currently, volunteer fire departments are not allowed to award their support service staff with credit toward retirement, while paid fire departments provide retirement benefits to support service staff. Fire departments generally assign incoming volunteers who do not present a certificate of physical fitness to support services. Therefore, volunteers of a fire department that do not present a certificate of physical fitness do not qualify under the Texas Emergency Service Retirement System (TESRS). This bill:

Defines "support services."

Authorizes the governing body of a participating department to make an election to include all persons who provide support services for the department as members of TESRS on the same terms as all other volunteers of the department.

Provides that a person becomes a members of TESRS if the local board of trustees accepts a certification of physical fitness or if the local board of trustees assigns the person to perform support services and enrolls its support staff as member of TESRS.

Cost-of-Living Adjustments and Investment Policy Relating to Pension Funds—H.B. 2829

by Representative Rodriguez—Senate Sponsor: Senator Watson

Approximately 38 fire departments participated in pension funds established by legislation enacted by the 45th Legislature in 1937. In 1975, legislation was enacted specifically addressing the Austin Fire Fighters Relief and Retirement Fund (fund). Actuarial studies were later conducted to determine the effects of inflation on the retirees' benefits and whether cost-of-living adjustments were needed. Since that time, cost-of-living adjustments have been approved by the pension boards nearly every year. Legislation is needed to continually update the statutory provisions relating to the fund and to provide flexibility to the fund's board of trustees in making such adjustments. This bill:

Provides that information contained in records in the custody of the fund concerning an individual member, retiree, annuitant, or beneficiary is confidential and may only be disclosed in certain situations.

Sets forth the parameters and considerations of the fund's board of trustees in determining the annual cost-of-living adjustment.

Requires the board of trustees of the fund to discharge its duties relating to making investments for the fund with the care, skill, prudence, and diligence that a prudent person would use.

Certification of Certain Investment Products With TRS—H.B. 3480

by Representatives Truitt and Menendez—Senate Sponsor: Senator Van de Putte

Current law authorizes companies offering a qualified investment product, such as a 403(b) retirement plan, to register with the Teacher Retirement System of Texas (TRS) before selling products to or contracting with school district employees. However, deceptive practices by and unfair competition among such companies may hurt teachers who buy such retirement plans unnecessarily. This bill:

Sets forth procedures regarding the investigations of complaints by TRS to the Texas Department of Insurance (TDI), the Texas Department of Banking, and the State Securities Board (SSB) about qualified investment products, including complaints that allege violations by companies that certify to TRS that the companies offer qualified investment products.

Prohibits a person from entering into or renewing a contract under which the person is to provide services or administer a qualified investment product unless the person holds a license or certification issued by TDI and is registered with SSB.

Authorizes companies that offer qualified investment products to certify to TRS based on rules adopted by the board of trustees of TRS, and sets forth the procedure by which TRS is authorized to deny, suspend, or revoke such certification.

Sets forth the civil penalties for violations relating to the sale of certain investment products.

Interagency Literacy Council—H.B. 4328

by Representative Strama et al.—Senate Sponsor: Senators Uresti and Zaffirini

According the United States Department of Education, Texas ranks 47th out of the 50 states in terms of English literacy levels. Additionally, literacy programs in Texas currently serve only a small percentage of those persons in need of adult basic education services. Low levels of literacy present an enormous challenge to Texas' future economic prosperity. This bill:

Establishes the Interagency Literacy Council (council).

Provides that the council is subject to Chapter 325 (Sunset Law), Government Code, and that the council, unless continued in existence as provided by that chapter, is abolished and this chapter expires September 1, 2019.

Requires the Texas Workforce Commission (TWC) to establish the council and provide staff and resources as necessary for the operation of the council.

Sets forth provisions for the composition, terms, meetings, compensation and reimbursement, and powers and duties of the council.

Requires the council to develop a comprehensive statewide action plan for the improvement of literacy in this state, including a recommended timeline for implementation.

Requires the council to submit to both houses of the legislature, the governor, and the Texas Workforce Investment Council on or before November 1 of each even-numbered year a written report on the development of the council's statewide action plan, the actions taken in furtherance of the plan, the areas that need improvement in implementing the plan, any change to the plan, and the programs and services that address literacy needs in this state.

Authorizes TWC to accept for the council a gift, grant, or donation from any source to carry out the purposes of this chapter.

Authorizes TWC to adopt necessary rules.

Notification of Certain Persons of Exposure to Certain Diseases—H.B. 4560

by Representatives Naishtat and Berman—Senate Sponsor: Senator Deuell

Current law requires the notification of emergency personnel, peace officers, detention officers, county jailers, and fire fighters when conditions arise that constitute possible exposure to certain reportable diseases. This bill:

Entitles a firefighter or emergency medical technician who is exposed to methicillin-resistant *Staphylococcus aureus* to receive notification of the exposure.

Exception to Authorized Injury Leave of Certain Peace Officers—S.B. 687

by Senator Hegar et al.—House Sponsor: Representative Driver

Current law entitles a peace officer who is commissioned as a law enforcement officer or agent by the Public Safety Commission and the director of the Department of Public Safety of the State of Texas, the Parks and Wildlife Commission, or the Texas Alcoholic Beverage Commission to injury leave for an injury resulting from an assaultive offense. This bill:

Entitles a peace officer to injury leave, without a deduction in salary, without being required to use compensatory time off, and without being required to use any other type of leave allowable, for an injury sustained due to the nature of the officer's duties and that occurs during the course of the officer's performance of duty, unless the officer's own gross negligence contributed to the injury or the injury was related to the performance of routine office duties.

Compensatory Time for Emergency Services Personnel—S.B. 1474

by Senator Nichols—House Sponsor: Representative McReynolds

Under current law state emergency services personnel exempt from the Fair Labor Standards Act only have one year to use accrued compensatory time. Additionally, agency heads are not allowed to pay overtime to emergency services personnel. Due to the frequency and degree of recent natural disasters and emergencies in Texas, many emergency services personnel have not been able to use their accrued compensatory time before the mandatory expiration date. This bill:

Authorizes a state employee who is emergency services personnel as defined in the bill, who is not subject to the overtime provisions of the federal Fair Labor Standards Act of 1938, and who is not an employee of the legislature, to be allowed to take compensatory time off during the 18-month period following the end of the workweek in which the compensatory time was accrued.

Authorizes the administrative head of a state agency that employs such an employee to pay the employee overtime at the employee's regular hourly salary rate for all or part of the hours of compensatory time off accrued by the employee during a declared disaster in the preceding 18-month period.

Requires the administrative head to reduce the employee's compensatory time balance by one hour for each hour the employee is paid overtime.

Benefits of Certain Fire Fighter and Peace Officer Pension Funds—S.B. 1628

by Senator Wentworth—House Sponsor: Representative McClendon

The Texas Legislature enacts statutes that regulate the operation of pension funds established by municipalities that provide retirement benefits to fire fighters, police officers, and their surviving spouses and dependents. Amendments are often needed to update the funding and annuities of the pension systems. This bill:

Updates provisions relating to cost-of-living adjustments, eligibility requirements, and funds dispersed by police and fire fighter retirement systems in municipalities of 750,000 to 1,000,000.

Requirements of Return-to-Work Reimbursement Program—S.B. 1814

by Senator Van de Putte—House Sponsor: Representative Deshotel

In 2005, the 79th Legislature established a pilot program assisting small employers to make necessary workplace modifications to facilitate an injured employee's return to work after a work-related injury by being reimbursed up to \$2,500 for expenses incurred in making the modifications. The program expires September 1, 2009. This bill:

Extends the implementation of the Return-to-Work Reimbursement pilot program and increases the amount of reimbursement from exceeding \$5,000, rather than \$2,500.

Civil Service Laws—S.B. 1896

by Senator Gallegos—House Sponsor: Representative Walle

Upon adoption of Chapter 143 (Municipal Civil Service for Firefighters and Police Officers), Local Government Code, by the voters of certain municipalities, a Fire Fighters' and Police Officers' Civil Service Commission (commission) is created in those municipalities. The purpose of the commission is to ensure the proper administration and to take actions as necessary to achieve the objective and purposes of the civil service laws of the state. S.B. 1896 amends the civil service laws relating to municipal fire fighters and police officers to provide for a fee for emergency medical services in certain municipalities and to update and clarify the grievance process in certain municipalities. S.B. 1896 also addresses issues overlooked in previous legislation relating to the ability of certain municipalities to meet and confer with firefighters and police officer to negotiate their terms of employment. This bill:

Authorizes a municipality that has a population of more than 200,000 and less than 250,000, is located in a county in which another municipality that has a population of more than one million is predominately located, and whose emergency medical services are administered by a fire department, by resolution of its governing body, to establish a monthly fee for the costs of emergency medical services, including salary and overtime related to medical personnel, and provides that this fee is applicable to each and every customer served by a municipal water account and is authorized to be collected in conjunction with the bill for water services.

Authorizes a fire fighter or police officer to file a grievance that relates to any aspect of the fire fighter's or police officer's employment, and sets forth the procedure for filing a grievance action and for the required response.

Redefines "firefighter" and "police officer" to be employed by the municipality's respective pension plan and classified by the municipality as nonexempt, rather than exempt.

Redefines "firefighter employee group" and "police officer employee group" to mean an organization in which a certain amount of the respective employees have participated and paid dues via automatic payroll deduction on or before September 1, 2007, rather than for at least one year.

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