

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-FIRST DAY

(Thursday, May 28, 2015)

The Senate met at 1:00 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Bettencourt, Birdwell, Burton, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

Pastor Becky Young, Church of the Hills, Cedar Park, offered the invocation as follows:

Father God, we thank You that You are present in this place with these great people who represent our State of Texas so well. Bless these men and women of the Senate, Lord. Bless them with strength, wisdom, clear minds, and gracious hearts as they navigate the final stretch of this session. May they encounter Your kindness and experience You as fun. Take great care of their families and staffs that support and care for them. May all complete this session well and with great joy. In Your name we pray, Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

PHYSICIAN OF THE DAY

Senator Huffines was recognized and presented Dr. Tanya Stachiw of Dallas as the Physician of the Day.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, May 28, 2015 - 1

(Revised Message)

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 565 (140 Yeas, 1 Nays, 2 Present, not voting)**HB 939** (140 Yeas, 0 Nays, 2 Present, not voting)**HB 1164** (92 Yeas, 45 Nays, 4 Present, not voting)**HB 1364** (139 Yeas, 0 Nays, 2 Present, not voting)**HB 1786** (142 Yeas, 0 Nays, 2 Present, not voting)**HB 2037** (136 Yeas, 5 Nays, 2 Present, not voting)**HB 2159** (138 Yeas, 3 Nays, 2 Present, not voting)**HB 2185** (132 Yeas, 8 Nays, 2 Present, not voting)**HB 2665** (138 Yeas, 1 Nays, 2 Present, not voting)**HB 2712** (130 Yeas, 11 Nays, 2 Present, not voting)**HB 2794** (138 Yeas, 0 Nays, 3 Present, not voting)**HB 2861** (138 Yeas, 3 Nays, 2 Present, not voting)**HB 3348** (141 Yeas, 1 Nays, 3 Present, not voting)**HB 3562** (137 Yeas, 2 Nays, 3 Present, not voting)**HB 4147** (140 Yeas, 0 Nays, 2 Present, not voting)

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

HB 743 (non-record vote)

House Conferees: Huberty - Chair/Deshotel/Farney/Isaac/King, Ken

HB 910 (non-record vote)

House Conferees: Phillips - Chair/Burns/Geren/King, Phil/Nevárez

HB 1690 (non-record vote)

House Conferees: King, Phil - Chair/Bonnen, Dennis/Davis, Sarah/Kuempel/Moody

HB 2633 (non-record vote)

House Conferees: Hernandez - Chair/Clardy/Moody/Murr/Rodriguez, Justin

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 1 (non-record vote)

House Conferees: Bonnen, Dennis - Chair/Darby/Martinez Fischer/Parker/Springer

SB 202 (non-record vote)

House Conferees: Price - Chair/Burkett/Harless/Kuempel/Raymond

SB 204 (non-record vote)

House Conferees: Raymond - Chair/Gonzales, Larry/King, Susan/Price/Workman

SB 207 (non-record vote)

House Conferees: Gonzales, Larry - Chair/Burkett/Dutton/Kuempel/Price

SB 459 (non-record vote)

House Conferees: Alvarado - Chair/Lozano/Lucio III/Thompson, Senfronia/Wu

SB 652 (non-record vote)

House Conferees: Farney - Chair/Kuempel/Oliveira/Rinaldi/Simmons

SB 752 (non-record vote)

House Conferees: Murphy - Chair/Harless/Turner, Chris/Villalba/Wray

SB 866 (non-record vote)

House Conferees: Bonnen, Greg - Chair/Faircloth/Longoria/Smith/Thompson, Ed

SB 1139 (non-record vote)

House Conferees: Smithee - Chair/Farrar/Laubenberg/Miller, Doug/Thompson, Senfronia

SB 1191 (non-record vote)

House Conferees: Crownover - Chair/Howard/Morrison/Turner, Chris/Zerwas

SB 1367 (non-record vote)

House Conferees: Anchia - Chair/Alvarado/Goldman/Murphy/Villalba

SB 1465 (non-record vote)

House Conferees: Phillips - Chair/Alonzo/Burns/Metcalf/Wray

SB 1574 (non-record vote)

House Conferees: Martinez, "Mando" - Chair/Bernal/Davis, Sarah/Paddie/Zerwas

SB 1735 (non-record vote)

House Conferees: Zerwas - Chair/Blanco/Farias/King, Susan/Miller, Rick

SB 1750 (non-record vote)

House Conferees: Murphy - Chair/Alonzo/Howard/Raney/Sheets

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 684 (139 Yeas, 1 Nays, 2 Present, not voting)

SB 1828 (140 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 1926

Pursuant to Rule 13, Section 5A of the Rules of the Texas House, 84th Legislature, the house hereby returns HB 1926 to the senate for further consideration due to non-germane amendments.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, May 28, 2015 - 2

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 27 Zaffirini Sponsor: Howard
Relating to the online broadcast of open meetings of institutions of higher education.

SB 58 Nelson Sponsor: Faircloth
Relating to the enforcement of commercial vehicle safety standards by certain municipalities and counties.

SB 107 Whitmire Sponsor: Thompson,
Senfronia
Relating to the designation of campus behavior coordinators to serve at public school campuses and issues to be considered when removing a student from class.

SB 108 Whitmire Sponsor: Thompson,
Senfronia
Relating to certain criminal procedures for misdemeanor offenses committed by children.
(Committee Substitute)

SB 142 Garcia Sponsor: Klick
Relating to the appointment and training of volunteer deputy registrars.
(Amended)

- SB 147** Rodríguez Sponsor: Hernandez
Relating to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, stalking, or trafficking case; providing penalties.
- SB 168** Uresti Sponsor: Farias
Relating to temporary waiver of superintendent certification for employment of public school district superintendents.
- SB 183** Huffman Sponsor: White, James
Relating to the offenses of the violation of civil rights of and improper sexual activity with individuals in custody; imposing a criminal penalty.
- SB 189** Watson Sponsor: Muñoz, Jr.
Relating to certain practices in the business of personal automobile insurance.
- SB 287** West Sponsor: Smithee
Relating to the elimination of certain court fees and costs and to the bill of costs provided to a defendant.
(Amended)
- SB 382** Uresti Sponsor: Huberty
Relating to public school educator continuing education credit for instruction on the use of an automated external defibrillator.
- SB 394** Perry Sponsor: King, Phil
Relating to the use of supplemental environmental projects by a local government to come into compliance with environmental laws or remediate environmental harm caused by the local government.
- SB 453** Seliger Sponsor: Clardy
Relating to minimum scores required for public school students to receive credit by an examination administered through the College-Level Examination Program.
- SB 507** Lucio Sponsor: Thompson, Senfronia
Relating to the placement and use of video cameras in self-contained classrooms or other settings providing special education services.
(Amended)
- SB 550** Uresti Sponsor: Rose
Relating to requiring dental support for a child subject to a child support order.
- SB 551** Seliger Sponsor: Keffer
Relating to the duty of the Water Conservation Advisory Council to submit a report and recommendations regarding water conservation in this state.
(Committee Substitute)
- SB 630** Rodríguez Sponsor: Dale
Relating to protective orders for certain victims of sexual assault or abuse, stalking, or trafficking.
(Committee Substitute)
- SB 638** Nichols Sponsor: Otto
Relating to the transfer of certain state property from the Texas Department of Transportation to the Shepherd Independent School District; requiring the payment of certain transaction fees.

- SB 674** Campbell Sponsor: Coleman
Relating to instruction regarding mental health, substance abuse, and youth suicide in educator training programs.
- SB 740** West Sponsor: Canales
Relating to the assessment of court costs and fees on conviction of multiple offenses or on conviction of multiple counts of the same offense.
(Amended)
- SB 806** Campbell Sponsor: King, Susan
Relating to the College Credit for Heroes program.
- SB 813** Rodríguez Sponsor: Lucio III
Relating to the use of digitized signatures in certain family law proceedings.
- SB 821** Rodríguez Sponsor: Lucio III
Relating to references to school in the Family Code.
- SB 825** Huffman Sponsor: Thompson, Senfronia
Relating to the prosecution of the offense of prostitution.
(Committee Substitute)
- SB 830** Kolkhorst Sponsor: Dutton
Relating to the creation of an independent ombudsman for children and youth in foster care.
- SB 833** Campbell Sponsor: King, Susan
Relating to the continuation of a residence homestead exemption from ad valorem taxation while the owner is temporarily absent because of military service.
- SB 907** Perry Sponsor: Frullo
Relating to the powers and duties of the board of regents of the Texas Tech University System and to workers' compensation coverage for employees of the system's components.
(Committee Substitute)
- SB 965** Bettencourt Sponsor: Schofield
Relating to the filing of a copy of certain records related to the release of an accused person on personal bond.
- SB 968** West Sponsor: Naishtat
Relating to a prescription drug misuse awareness component of the health curriculum used in public schools.
- SB 995** Rodríguez Sponsor: Wray
Relating to decedents' estates.
(Amended)
- SB 996** Taylor, Van Sponsor: Villalba
Relating to notifying a parent or guardian whether an employee of a school is appointed school marshal and the confidentiality of information submitted to or collected by the Texas Commission on Law Enforcement in connection with a certification for appointment as school marshal.

- SB 1001** Kolkhorst Sponsor: Schofield
Relating to the creation of the Harris County Municipal Utility District No. 545; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 1002** Kolkhorst Sponsor: Schofield
Relating to the creation of the Harris County Municipal Utility District No. 540; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 1004** Bettencourt Sponsor: Thompson, Senfronia
Relating to courses and programs offered jointly by certain public junior colleges and independent school districts.
(Amended)
- SB 1034** Rodríguez Sponsor: Miller, Rick
Relating to voting by mail, including the cancellation of an application for a ballot to be voted by mail.
(Amended)
- SB 1060** Hinojosa Sponsor: Thompson, Ed
Relating to the regulation of public insurance adjusters.
- SB 1073** Zaffirini Sponsor: Rodriguez, Eddie
Relating to the requirements for a candidate's application or nomination for a place on the ballot and related procedures.
(Committee Substitute)
- SB 1132** Perry Sponsor: Murr
Relating to the protection and use of certain products, information, and technology of the Parks and Wildlife Department.
- SB 1162** Hancock Sponsor: Keffer
Relating to the nonsubstantive revision of certain local laws concerning water and wastewater special districts, including conforming amendments.
- SB 1174** Eltife Sponsor: Dutton
Relating to the insurance reporting program operated by the Title IV-D agency.
- SB 1227** Seliger Sponsor: Workman
Relating to payment of covered claims based on assignment.
- SB 1228** Seliger Sponsor: Hughes
Relating to authorizing children of Texas Alcoholic Beverage Commission employees to be employed by holders of licenses or permits issued by the commission.
- SB 1237** Taylor, Van Sponsor: Sanford
Relating to Internet broadcasts of open meetings held by the policy board of certain metropolitan planning organizations.
- SB 1259** Rodríguez Sponsor: Allen
Relating to the development of an individualized education program for a child in public school.

- SB 1307** Menéndez Sponsor: King, Susan
Relating to occupational licenses for military service members, military veterans, and military spouses.
- SB 1309** Menéndez Sponsor: Deshotel
Relating to the establishment of a Junior Reserve Officer Training Corps teaching certificate and eligibility of such certified teacher for other educator certification.
(Committee Substitute)
- SB 1313** Watson Sponsor: Villalba
Relating to the names of certain businesses.
- SB 1315** Watson Sponsor: Anchia
Relating to low income housing tax credits awarded for at-risk developments.
- SB 1316** Watson Sponsor: Alvarado
Relating to the system by which an application for a low income housing tax credit is scored.
(Committee Substitute/Amended)
- SB 1317** Menéndez Sponsor: Miller, Doug
Relating to the prosecution of the offense of invasive visual recording.
(Amended)
- SB 1338** Perry Sponsor: Springer
Relating to an exemption from length limitations for certain vehicles or combinations of vehicles used to transport harvest machines.
(Committee Substitute)
- SB 1362** Kolkhorst Sponsor: Schofield
Relating to the powers and duties and composition of the board of directors of the Bridgeland Management District.
- SB 1364** Kolkhorst Sponsor: Burkett
Relating to electronic filing of certain reports.
(Committee Substitute)
- SB 1369** Zaffirini Sponsor: Smithee
Relating to reports on attorney ad litem, guardian ad litem, guardian, mediator, and competency evaluator appointments made by courts in this state and an interim study on a billing system for attorneys ad litem.
(Committee Substitute/Amended)
- SB 1453** Zaffirini Sponsor: King, Tracy O.
Relating to the authority of certain municipalities to propose a fire control, prevention, and emergency medical services district.
- SB 1459** Bettencourt Sponsor: Bohac
Relating to the powers and duties of the West Harris County Regional Water Authority.
(Amended)
- SB 1468** Watson Sponsor: Howard
Relating to certain communications regarding the appointment or conduct of certain appraisal review board members; amending provisions subject to a criminal penalty.

- SB 1494** Uresti Sponsor: Turner, Chris
Relating to the educational needs of homeless students.
- SB 1510** Hancock Sponsor: Zedler
Relating to authority of the county auditor to examine and audit the records of certain special districts.
(Committee Substitute)
- SB 1540** Perry Sponsor: Keough
Relating to the authority of the Health and Human Services Commission and the Department of Aging and Disability Services to obtain criminal history record information regarding certain applicants for employment and current employees.
- SB 1543** Perry Sponsor: Frank
Relating to the admission of undergraduate students with nontraditional secondary education to public institutions of higher education.
- SB 1624** Rodríguez Sponsor: Márquez
Relating to a requirement that certain entering students at a general academic teaching institution receive information regarding mental health and suicide prevention services.
(Committee Substitute)
- SB 1707** Huffman Sponsor: Miles
Relating to the sealing of certain juvenile records.
- SB 1716** Ellis Sponsor: Miles
Relating to the governance of certain housing authorities.
- SB 1726** Creighton Sponsor: Riddle
Relating to suits affecting the parent-child relationship and the enforcement of child support.
- SB 1727** Creighton Sponsor: Riddle
Relating to the duties of the Title IV-D agency regarding the establishment, collection, and enforcement of child support.
(Committee Substitute)
- SB 1812** Kolkhorst Sponsor: Geren
Relating to transparency in the reporting and public availability of information regarding eminent domain authority; providing a civil penalty.
(Committee Substitute)
- SB 1824** Campbell Sponsor: King, Susan
Relating to a study and report on the awarding of the Texas Legislative Medal of Honor.
(Committee Substitute)
- SB 1852** Nichols Sponsor: White, James
Relating to the adoption of an amendment procedure for restrictive covenants affecting real property in certain residential subdivisions.
- SB 1867** Zaffirini Sponsor: Aycock
Relating to excluding certain adult students receiving special education services from computation of completion rates for purposes of public school accountability.
(Committee Substitute)

- SB 1881** Zaffirini Sponsor: Peña
Relating to authorizing supported decision-making agreements for certain adults with disabilities.
- SB 1908** Perry Sponsor: Burrows
Relating to the issuance of general obligation bonds by the Lynn County Hospital District.
- SB 1913** Perry Sponsor: Smithee
Relating to a court administrator in certain counties.
(Amended)
- SB 1928** Seliger Sponsor: Price
Relating to ensuring local governmental and community input in any federal refugee resettlement program established in this state.
(Committee Substitute)
- SB 1940** Huffman Sponsor: Flynn
Relating to the creation of a joint interim committee to undertake a study of health benefit plans administered by the Teacher Retirement System of Texas.
- SB 1964** Hinojosa Sponsor: Martinez, "Mando"
Relating to the imposition of additional fees for filing civil cases and for recording certain documents in Hidalgo County and Cameron County.
(Committee Substitute)
- SB 1978** Lucio Sponsor: Cyrier
Relating to a voluntary contribution to help feed hungry Texans when a person applies for a hunting license.
- SB 1982** Kolkhorst Sponsor: Goldman
Relating to the regulation of certain motor vehicle auctions.
- SB 1999** Menéndez Sponsor: Coleman
Relating to day activity and health services facilities.
(Committee Substitute)
- SB 2002** Creighton Sponsor: Bell
Relating to the powers and duties of the Montgomery County Municipal Utility District No. 111 and to the creation of the F.M. 2920/Becker Road Municipal Utility District of Harris County; granting a limited power of eminent domain; providing authority to issue bonds and impose fees, assessments, and taxes.
(Amended)
- SB 2007** Kolkhorst Sponsor: Zerwas
Relating to the creation of the Fort Bend County Municipal Utility District No. 219; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 2008** Kolkhorst Sponsor: Schofield
Relating to the creation of the Harris County Municipal Utility District No. 539; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

- SB 2009** Kolkhorst Sponsor: Schofield
Relating to the creation of the Harris County Municipal Utility District No. 541; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 2013** Kolkhorst Sponsor: Schofield
Relating to the creation of the Harris County Municipal Utility District No. 538; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 2019** Uresti Sponsor: Guillen
Relating to the composition of the Texas Violent Gang Task Force.
- SB 2026** Nichols Sponsor: Bell
Relating to the creation of the Montgomery County Municipal Utility District No. 150; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 2037** Kolkhorst Sponsor: Schofield
Relating to the creation of the Harris County Municipal Utility District No. 543; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 2044** Nichols Sponsor: Bell
Relating to the creation of Valley Ranch Town Center Management District; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.
- SB 2057** Taylor, Van Sponsor: Flynn
Relating to the creation of the Double R Municipal Utility Districts Nos. 1 and 2 of Hunt County; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 2062** Watson Sponsor: Farney
Relating to authorizing certain charter holders to provide combined services for certain adult and high school dropout recovery programs.
- SB 2064** Creighton Sponsor: Metcalf
Relating to the creation of the Montgomery County Municipal Utility District No. 153; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 2074** Campbell Sponsor: Isaac
Relating to the creation of the Legacy Municipal Utility District No. 1; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.
- SB 2075** Campbell Sponsor: Isaac
Relating to the annexation and eminent domain powers of and the development of certain wastewater projects by the Needmore Ranch Municipal Utility District No. 1.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 1024

Senator L. Taylor offered the following resolution:

SR 1024, Recognizing Shanna Peeples for being named the 2015 National Teacher of the Year.

L. TAYLOR
SELIGER

The resolution was read and was adopted without objection.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

(Senator Eltife in Chair)

GUESTS PRESENTED

Senator L. Taylor, joined by Senator Seliger, was recognized and introduced to the Senate the 2015 National Teacher of the Year, Shanna Peeples, Amarillo Independent School District Superintendent Rod Schroder, and Palo Duro High School Principal Sandy Whitlow.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Garcia, joined by Senator Zaffirini, was recognized and introduced to the Senate a U.S. Border Patrol Laredo Sector delegation: Youth of the Year Tinglin Wu, Agent Eugenio Rodriguez, Agent Bruce Rendon, Agent Jose V. Monserrate, and IBC Bank Marketing Coordinator Kristina Valenciano.

The Senate welcomed its guests.

SENATE BILL 11 WITH HOUSE AMENDMENTS

Senator Birdwell called **SB 11** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 11** (house committee report) as follows:

(1) On page 1, line 22, strike "Except as provided by Subsection (d) or (e)," and substitute "Except as provided by Subsection (d), (d-1), or (e)."

(2) On page 2, between lines 8 and 9, insert the following:

(d-1) Subject to the approval of not less than two-thirds of the board of regents or other governing board of the institution and after consulting with students, staff, and faculty of the institution, an institution of higher education in this state may establish reasonable rules, regulations, or other provisions prohibiting license holders from carrying concealed handguns on specifically identified portions of premises located on the campus of the institution. The institution may not establish rules, regulations, or other provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution. The institution must give effective notice under Section 30.06, Penal Code, with respect to the portion of the premises on which license holders may not carry.

(d-2) Not later than September 1 of each even-numbered year, an institution of higher education that has established rules, regulations, or other provisions under Subsection (d-1) must submit a report to the legislature and to the standing committees of the legislature designated under Subsection (d-3) that:

(1) describes the specifically identified portions of premises of the institution on which the carrying of concealed handguns is prohibited under the rules, regulations, or other provisions; and

(2) explains the reasons the institution prohibits the carrying of concealed handguns on those portions.

(d-3) The speaker of the house of representatives and the lieutenant governor shall designate a standing committee of the house of representatives and the senate, respectively, to monitor the implementation and continuation of this section.

(3) On page 8, line 16, strike "Subsection (a-2)" and substitute "Subsections (a-2) and (a-3)".

(4) On page 9, between lines 1 and 2, insert the following:

(a-3) Notwithstanding Subsection (a) or Section 46.03(a), a license holder commits an offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by rules, regulations, or other provisions established under Section 411.2031(d-1), Government Code, provided the institution gives effective notice under Section 30.06 with respect to that portion.

(5) On page 9, line 2, between "(a-2)" and the underlined comma, insert ", (a-3)".

(6) On page 9, lines 6 and 7, strike "or (a-2)" and substitute ", (a-2), or (a-3)".

(7) On page 9, line 11, between "(a-2)" and the underlined comma, insert ", (a-3)".

(8) Strike page 10, line 1, and substitute the following appropriately numbered SECTION:

SECTION ____. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2016.

(b) Before September 1, 2016, an institution of higher education or private or independent institution of higher education may take any action necessary to adopt rules, regulations, or other provisions as authorized under Section 411.2031, Government Code, as added by this Act.

Floor Amendment No. 5

Amend **SB 11** (house committee printing) as follows:

(1) On page 1, strike lines 13-17 and substitute the following:

(2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code. The term does not include a health-related institution of higher education listed under Section 63.002(c), Education Code, or the Texas Medical Center.

(3) "Private or independent institution of higher education" has the meaning assigned by Section 61.003, Education Code. The term does not include a health-related institution of higher education listed under Section 63.002(c), Education Code, or the Texas Medical Center.

(4) "Premises" has the meaning assigned by Section 46.035, Penal Code.

(2) On page 4, line 25, strike "61.003, Education Code", and substitute "411.2031".

(3) On page 6, line 13, strike "61.003, Education Code" and substitute "411.2031, Government Code".

(4) On page 8, line 14, strike "Section 61.003, Education Code" and substitute "Section 411.2031, Government Code".

Floor Amendment No. 6

Amend **SB 11** (house committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 411.2031(c), Government Code (page 1, line 22), strike "or (e)".

(2) In SECTION 1 of the bill, strike added Section 411.2031(e), Government Code (page 2, lines 9-16), and reletter subsequent subsections of that section and any cross-references to those subsections accordingly.

(3) In SECTION 2 of the bill, in amended Section 411.208(a), Government Code (page 3, line 10), strike "that has not adopted rules under Section 411.2031(e)".

(4) In SECTION 2 of the bill, in amended Section 411.208(a), Government Code (page 3, lines 12-13), strike "that has not adopted rules under Section 411.2031(e)".

(5) In SECTION 2 of the bill, in amended Section 411.208(b), Government Code (page 3, lines 24-25), strike "that has not adopted rules under Section 411.2031(e)".

(6) In SECTION 2 of the bill, in amended Section 411.208(b), Government Code (page 3, lines 26-27), strike "that has not adopted rules under Section 411.2031(e)".

(7) In SECTION 2 of the bill, in added Section 411.208(d)(1), Government Code (page 4, line 9), strike "that has not adopted rules under Section 411.2031(e)".

(8) In SECTION 2 of the bill, in added Section 411.208(d)(1), Government Code (page 4, lines 11-12), strike "that has not adopted rules under Section 411.2031(e)".

(9) Strike SECTION 6 of the bill (page 8, line 15, through page 9, line 13), and renumber subsequent SECTIONS of the bill accordingly.

The amendments were read.

Senator Birdwell moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Huffines, Huffman, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor, Watson.

Nays: Ellis, Garcia, Hinojosa, Lucio, Menéndez, Rodríguez, Uresti, West, Whitmire, Zaffirini.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 11** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Birdwell, Chair; Huffman, Schwertner, Burton, and Hinojosa.

CONFERENCE COMMITTEE ON HOUSE BILL 910

Senator Estes called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 910** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 910** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Huffines, Huffman, Eltife, and Uresti.

SENATE BILL 37 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 37** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 37** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to requiring the Texas Higher Education Coordinating Board to collect and study data on the participation of persons with intellectual and developmental disabilities at public institutions of higher education.

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

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0664 to read as follows:

Sec. 61.0664. COLLECTION AND STUDY OF DATA ON PARTICIPATION OF PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IN HIGHER EDUCATION. (a) The board shall collect and maintain data relating to undergraduate and graduate level participation of persons with intellectual and developmental disabilities at institutions of higher education, including data regarding applications for admission, admissions, retention, graduation, and professional licensing.

(b) The board shall conduct an ongoing study of the data collected and maintained under Subsection (a) to analyze factors affecting the participation of persons with intellectual and developmental disabilities at institutions of higher education.

(c) The board shall conduct an ongoing study on the recruitment of persons with intellectual and developmental disabilities at institutions of higher education. The study must identify previously made recruitment efforts, limitations on recruitment, and possible methods for recruitment. Not later than November 1 of each even-numbered year, the board shall submit to the governor and members of the legislature a report on the results of the study conducted under this subsection and any recommendations for legislative or other action.

(d) Each institution of higher education, at times prescribed by the board, shall submit to the board any information requested by the board as necessary for the board to carry out its duties under this section.

(e) The board shall adopt rules as necessary to implement this section in a manner that ensures compliance with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

SECTION 2. This Act takes effect September 1, 2015.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 37**.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Bettencourt, Birdwell, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Hall.

SENATE BILL 267 WITH HOUSE AMENDMENTS

Senator Perry called **SB 267** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 267** (house committee printing) as follows:

- (1) On page 1, line 8, strike "(a)".
- (2) On page 1, strike lines 15 and 16.

Floor Amendment No. 3

Amend **SB 267** (house committee printing) as follows:

(1) On page 1, line 8, strike "A municipality" and substitute "Except as provided by this section, a municipality".

(2) On page 1, between lines 16 and 17, insert the following appropriately lettered subsection and reletter subsections of Section 250.007, Local Government Code, and cross-references to those subsections as necessary:

() This section does not affect an ordinance or regulation that prohibits the refusal to lease or rent a housing accommodation to a military veteran because of the veteran's lawful source of income to pay rent.

Floor Amendment No. 4

Amend **SB 267** as follows:

(1) Add subsection (c) to read as follows:

(c) This section does not affect any authority of a municipality or county or decree to create or implement an incentive, contract commitment, density bonus, or other voluntary program designed to encourage the acceptance of a housing voucher directly or indirectly funded by the federal government, including a federal housing choice voucher.

Floor Amendment No. 5

Amend **SB 267** (house engrossed version) on page 1, lines 13 and 14, by striking "of the person's lawful source of income to pay rent, including a federal housing choice voucher" and substituting "the person's lawful source of income to pay rent derives from a federal housing assistance program".

The amendments were read.

Senator Perry moved to concur in the House amendments to **SB 267**.

The motion prevailed by the following vote: Yeas 19, Nays 12.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hancock, Huffines, Huffman, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor.

Nays: Ellis, Garcia, Hall, Hinojosa, Lucio, Menéndez, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

SENATE BILL 57 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 57** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 57** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to information collected by a regional tollway authority, regional transportation authority, metropolitan rapid transit authority, or coordinated county transportation authority.

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

SECTION 1. Section 366.178(b-1), Transportation Code, is amended to read as follows:

(b-1) As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll assessment facility, the authority shall use video recordings, photography, electronic data, transponders, or other tolling methods to permit the registered owner of the nonpaying vehicle to pay the toll at a later date or provide toll exemptions. Information collected under this subsection, including contact, payment, and other account information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 2. Sections 366.179(a) and (d), Transportation Code, are amended to read as follows:

(a) For purposes of this section, a transponder is a device placed on or within a motor vehicle ~~[an automobile]~~ that is capable of transmitting or receiving information used to assess or collect tolls or provide toll exemptions. A transponder is insufficiently funded if there is no money in the account for which the transponder was issued.

(d) Transponder ~~[customer]~~ account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 3. Section 372.102(a), Transportation Code, is amended to read as follows:

(a) Notwithstanding the confidentiality of electronic toll collection customer account information, including confidentiality under Sections 228.057(e), 366.178(b-1), 366.179(d), and 370.178(d), a toll project entity may publish a list of the names of the registered owners or lessees of nonpaying vehicles who at the time of publication are liable for the payment of past due and unpaid tolls or administrative fees. The list may include only the persons' names and, for each person listed:

- (1) the city and state of the person's residence;
- (2) the total number of events of nonpayment; and
- (3) the total amount due for the tolls and administrative fees.

SECTION 4. Section 451.061, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) Personal identifying information collected by an authority is confidential and not subject to disclosure under Chapter 552, Government Code, including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number; and
- (3) other personal financial information.

SECTION 5. Section 452.061, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) Personal identifying information collected by an authority is confidential and not subject to disclosure under Chapter 552, Government Code, including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number; and
- (3) other personal financial information.

SECTION 6. Section 460.109, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) Personal identifying information collected by an authority is confidential and not subject to disclosure under Chapter 552, Government Code, including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number; and
- (3) other personal financial information.

SECTION 7. The changes in law made by this Act apply only to a request for information that is received by a regional tollway authority, regional transportation authority, metropolitan rapid transit authority, or coordinated county transportation authority on or after the effective date of this Act. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

Floor Amendment No. 1

Amend **CSSB 57** (house committee report) as follows:

(1) On page 2, line 8, between "366.179(d)," and "and", insert "370.177(m),".

(2) On page 3, line 23, between "authority," and "regional transportation authority", insert "regional mobility authority,".

(3) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 370.177, Transportation Code, is amended by adding Subsection (m) to read as follows:

(m) Information collected for the purposes of this section, including contact, payment, and other account information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION _____. Sections 370.178(a) and (d), Transportation Code, are amended to read as follows:

(a) For purposes of this section, "transponder" means a device placed on or within a motor vehicle [~~an automobile~~] that is capable of transmitting or receiving information used to assess or collect tolls or provide toll exemptions. A transponder is insufficiently funded if there is no money in the account for which the transponder was issued.

(d) Transponder [~~customer~~] account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

The amendments were read.

Senator Nelson moved to concur in the House amendments to **SB 57**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 59 WITH HOUSE AMENDMENT

Senator Nelson called **SB 59** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 59** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from competitive bidding requirements for the procurement of services for victims of family violence.

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

SECTION 1. The heading to Section 51.004, Human Resources Code, is amended to read as follows:

Sec. 51.004. CONTRACT ELIGIBILITY; PROCUREMENT; APPLICATION PROCESS [BIDS].

SECTION 2. Section 51.004, Human Resources Code, is amended by amending Subsection (e), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and by adding Subsections (f) and (g) to read as follows:

(e) The commission shall use a noncompetitive procurement procedure to award a contract under Section 51.003(a) or (b) if the commission determines that there is no competition between eligible family violence centers for services or a service area. If the commission determines that there is competition between eligible family violence centers for services or a service area, the commission shall award a contract under Section 51.003(a) or (b) through an application process that considers the eligibility requirements and other factors provided in this section and allocates the money in accordance with this chapter and with consideration of the family violence services plan under Section 51.0021 ~~[a competitive procurement procedure]~~.

(f) The commission shall consult with a statewide family violence organization to develop the application process described in Subsection (e) but may not involve the organization in the contract selection or award process.

(g) To the extent of any conflict between this section and any other law, including Chapter 2155, Government Code, this section controls.

SECTION 3. Section 51.003(d), Human Resources Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is repealed.

SECTION 4. The changes in law made by this Act apply only to a contract awarded on or after the effective date of this Act.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 59**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 195 WITH HOUSE AMENDMENTS

Senator Schwertner called **SB 195** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 195** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to prescriptions for certain controlled substances, access to information about those prescriptions, and the duties of prescribers and other entities registered with the Federal Drug Enforcement Administration; authorizing fees.

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

SECTION 1. Section 552.118, Government Code, is amended to read as follows:

Sec. 552.118. EXCEPTION: CONFIDENTIALITY OF OFFICIAL PRESCRIPTION PROGRAM INFORMATION. Information is excepted from the requirements of Section 552.021 if it is:

(1) information on or derived from an official prescription form or electronic prescription record filed with the Texas State Board of Pharmacy [~~director of the Department of Public Safety~~] under Section 481.075, Health and Safety Code; or

(2) other information collected under Section 481.075 of that code.

SECTION 2. Section 481.002, Health and Safety Code, is amended by amending Subdivisions (4) and (45) and adding Subdivision (55) to read as follows:

(4) "Controlled premises" means:

(A) a place where original or other records or documents required under this chapter are kept or are required to be kept; or

(B) a place, including a factory, warehouse, other establishment, or conveyance, where a person registered under this chapter may lawfully hold, manufacture, distribute, dispense, administer, possess, or otherwise dispose of a controlled substance or other item governed by the federal Controlled Substances Act (21 U.S.C. Section 801 et seq.) or this chapter, including a chemical precursor and a chemical laboratory apparatus.

(45) "Registrant" means a person who has a current Federal Drug Enforcement Administration registration number [~~is registered under Section 481.063~~].

(55) "Board" means the Texas State Board of Pharmacy.

SECTION 3. Section 481.003(a), Health and Safety Code, is amended to read as follows:

(a) The director may adopt rules to administer and enforce this chapter, other than Sections 481.073, 481.074, 481.075, 481.076, and 481.0761. The board may adopt rules to administer Sections 481.073, 481.074, 481.075, 481.076, and 481.0761.

SECTION 4. The heading to Section 481.061, Health and Safety Code, is amended to read as follows:

Sec. 481.061. FEDERAL REGISTRATION REQUIRED.

SECTION 5. Sections 481.061(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Except as otherwise provided by this chapter, a person who is not registered with or exempt from registration with the Federal Drug Enforcement Administration ~~[a registrant]~~ may not manufacture, distribute, prescribe, possess, analyze, or dispense a controlled substance in this state.

(b) A person who is registered with ~~[by]~~ the Federal Drug Enforcement Administration ~~[director]~~ to manufacture, distribute, analyze, dispense, or conduct research with a controlled substance may possess, manufacture, distribute, analyze, dispense, or conduct research with that substance to the extent authorized by the person's registration and in conformity with this chapter.

SECTION 6. Section 481.062(a), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The following persons ~~[are not required to register and]~~ may possess a controlled substance under this chapter:

(1) an agent or employee of a ~~[registered]~~ manufacturer, distributor, analyzer, or dispenser of the controlled substance who is registered with the Federal Drug Enforcement Administration and acting in the usual course of business or employment;

(2) a common or contract carrier, a warehouseman, or an employee of a carrier or warehouseman whose possession of the controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of the controlled substance under a lawful order of a practitioner or in lawful possession of the controlled substance if it is listed in Schedule V;

(4) an officer or employee of this state, another state, a political subdivision of this state or another state, or the United States who is lawfully engaged in the enforcement of a law relating to a controlled substance or drug or to a customs law and authorized to possess the controlled substance in the discharge of the person's official duties; or

(5) if the substance is tetrahydrocannabinol or one of its derivatives:

(A) a Department of State Health Services official, a medical school researcher, or a research program participant possessing the substance as authorized under Subchapter G; or

(B) a practitioner or an ultimate user possessing the substance as a participant in a federally approved therapeutic research program that the commissioner has reviewed and found, in writing, to contain a medically responsible research protocol.

SECTION 7. Section 481.067(a), Health and Safety Code, is amended to read as follows:

(a) A person who is registered with the Federal Drug Enforcement Administration to manufacture, distribute, analyze, or dispense a controlled substance shall keep records and maintain inventories in compliance with recordkeeping and inventory requirements of federal law and with additional rules the board or director adopts.

SECTION 8. Section 481.073(a), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) Only a practitioner defined by Section 481.002(39)(A) and an agent designated in writing by the practitioner in accordance with rules adopted by the board [~~department~~] may communicate a prescription by telephone. A pharmacy that receives a telephonically communicated prescription shall promptly write the prescription and file and retain the prescription in the manner required by this subchapter. A practitioner who designates an agent to communicate prescriptions shall maintain the written designation of the agent in the practitioner's usual place of business and shall make the designation available for inspection by investigators for the Texas Medical Board, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the board, and the department. A practitioner who designates a different agent shall designate that agent in writing and maintain the designation in the same manner in which the practitioner initially designated an agent under this section.

SECTION 9. Sections 481.074(b), (c), (d), (p), and (q), Health and Safety Code, are amended to read as follows:

(b) Except in an emergency as defined by rule of the board [~~director~~] or as provided by Subsection (o) or Section 481.075(j) or (m), a person may not dispense or administer a controlled substance listed in Schedule II without a written prescription of a practitioner on an official prescription form or without an electronic prescription that meets the requirements of and is completed by the practitioner in accordance with Section 481.075. In an emergency, a person may dispense or administer a controlled substance listed in Schedule II on the oral or telephonically communicated prescription of a practitioner. The person who administers or dispenses the substance shall:

(1) if the person is a prescribing practitioner or a pharmacist, promptly comply with Subsection (c); or

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and include in the written record of the prescription the name, address, and Federal Drug Enforcement Administration number issued for prescribing a controlled substance in this state of the prescribing practitioner, all information required to be provided by a practitioner under Section 481.075(e)(1), and all information required to be provided by a dispensing pharmacist under Section 481.075(e)(2).

(c) Not later than the seventh day after the date a prescribing practitioner authorizes an emergency oral or telephonically communicated prescription, the prescribing practitioner shall cause a written or electronic prescription, completed in the manner required by Section 481.075, to be delivered to the dispensing pharmacist at the pharmacy where the prescription was dispensed. A written prescription may be delivered in person or by mail. The envelope of a prescription delivered by mail must be postmarked not later than the seventh day after the date the prescription was authorized. On receipt of a written prescription, the dispensing pharmacy shall file the transcription of the telephonically communicated prescription and the pharmacy copy and shall send information to the board [~~director~~] as required by Section 481.075. On

receipt of an electronic prescription, the pharmacist shall annotate the electronic prescription record with the original authorization and date of the emergency oral or telephonically communicated prescription.

(d) Except as specified in Subsections (e) and (f), the board [~~director~~], by rule and in consultation with the Texas Medical Board [~~and the Texas State Board of Pharmacy~~], shall establish the period after the date on which the prescription is issued that a person may fill a prescription for a controlled substance listed in Schedule II. A person may not refill a prescription for a substance listed in Schedule II.

(p) On receipt of the prescription, the dispensing pharmacy shall file the facsimile copy of the prescription and shall send information to the board [~~director~~] as required by Section 481.075.

(q) Each dispensing pharmacist shall send all required information [~~required by the director~~], including any information required to complete the Schedule III through V prescription forms, to the board [~~director~~] by electronic transfer or another form approved by the board [~~director~~] not later than the seventh day after the date the prescription is completely filled.

SECTION 10. Sections 481.075(c), (g), (i), (k), and (m), Health and Safety Code, are amended to read as follows:

(c) The board [~~director~~] shall issue official prescription forms to practitioners for a fee covering the actual cost of printing, processing, and mailing the forms [~~at 100¢ a package~~]. Before mailing or otherwise delivering prescription forms to a practitioner, the board [~~director~~] shall print on each form the number of the form and any other information the board [~~director~~] determines is necessary.

(g) Except for an oral prescription prescribed under Section 481.074(b), the prescribing practitioner shall:

(1) legibly fill in, or direct a designated agent to legibly fill in, on the official prescription form or in the electronic prescription, each item of information required to be provided by the prescribing practitioner under Subsection (e)(1), unless the practitioner determines that:

(A) under rule adopted by the board [~~director~~] for this purpose, it is unnecessary for the practitioner or the practitioner's agent to provide the patient identification number; or

(B) it is not in the best interest of the patient for the practitioner or practitioner's agent to provide information regarding the intended use of the controlled substance or the diagnosis for which it is prescribed; and

(2) sign the official prescription form and give the form to the person authorized to receive the prescription or, in the case of an electronic prescription, electronically sign or validate the electronic prescription as authorized by federal law and transmit the prescription to the dispensing pharmacy.

(i) Each dispensing pharmacist shall:

(1) fill in on the official prescription form or note in the electronic prescription record each item of information given orally to the dispensing pharmacy under Subsection (h) and the date the prescription is filled, and:

(A) for a written prescription, fill in the dispensing pharmacist's signature; or

(B) for an electronic prescription, appropriately record the identity of the dispensing pharmacist in the electronic prescription record;

(2) retain with the records of the pharmacy for at least two years:

(A) the official prescription form or the electronic prescription record, as applicable; and

(B) the name or other patient identification required by Section 481.074(m) or (n); and

(3) send all required information [~~required by the director~~], including any information required to complete an official prescription form or electronic prescription record, to the board [~~director~~] by electronic transfer or another form approved by the board [~~director~~] not later than the seventh day after the date the prescription is completely filled.

(k) Not later than the 30th day after the date a practitioner's [~~department registration number,~~] Federal Drug Enforcement Administration number[;] or license to practice has been denied, suspended, canceled, surrendered, or revoked, the practitioner shall return to the board [~~department~~] all official prescription forms in the practitioner's possession that have not been used for prescriptions.

(m) A pharmacy in this state may fill a prescription for a controlled substance listed in Schedule II issued by a practitioner in another state if:

(1) a share of the pharmacy's business involves the dispensing and delivery or mailing of controlled substances;

(2) the prescription is issued by a prescribing practitioner in the other state in the ordinary course of practice; and

(3) the prescription is filled in compliance with a written plan providing the manner in which the pharmacy may fill a Schedule II prescription issued by a practitioner in another state that:

(A) is submitted by the pharmacy to the board [~~director~~]; and

(B) is approved by the board [~~director in consultation with the Texas State Board of Pharmacy~~].

SECTION 11. The heading to Section 481.076, Health and Safety Code, is amended to read as follows:

Sec. 481.076. OFFICIAL PRESCRIPTION INFORMATION; DUTIES OF TEXAS STATE BOARD OF PHARMACY.

SECTION 12. Section 481.076, Health and Safety Code, is amended by amending Subsections (a), (a-1), (a-2), (b), (c), (d), (e), (g), and (i) and adding Subsections (a-3), (a-4), (a-5), (j), and (k) to read as follows:

(a) The board [~~director~~] may not permit any person to have access to information submitted to the board [~~director~~] under Section 481.074(q) or 481.075 except:

(1) an investigator for the board, the Texas Medical Board, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, or the Texas Optometry [~~State~~] Board [~~of Pharmacy~~];

(2) an authorized officer or member of the department or authorized employee of the board engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state; [~~or~~]

(3) the department on behalf of [if the director finds that proper need has been shown to the director;

[~~(A)~~] a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(4) a medical examiner conducting an investigation;

(5) [~~(B)~~] a pharmacist or a pharmacy technician, as defined by Section 551.003, Occupations Code, acting at the direction of a pharmacist or a practitioner who is a physician, dentist, veterinarian, podiatrist, optometrist, or advanced practice nurse or is a physician assistant described by Section 481.002(39)(D) or an employee or other agent of a practitioner [a nurse licensed under Chapter 301, Occupations Code,] acting at the direction of a practitioner and is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner, provided that the person accessing the information is authorized to do so under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted under that Act; [~~or~~]

(6) [~~(C)~~] a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity; or

(7) one or more states or an association of states with which the board has an interoperability agreement, as provided by Subsection (j).

(a-1) A person authorized to receive information under Subsection (a)(4), (5), [~~(a)(3)(B)~~] or (6) [~~(C)~~] may access that information through a health information exchange, subject to proper security measures to ensure against disclosure to unauthorized persons.

(a-2) A person authorized to receive information under Subsection (a)(5) [~~(a)(3)(B)~~] may include that information in any form in the medical or pharmacy record of the patient who is the subject of the information. Any information included in a patient's medical or pharmacy record under this subsection is subject to any applicable state or federal confidentiality or privacy laws.

(a-3) The board shall ensure that the department has unrestricted access at all times to information submitted to the board under Sections 481.074(q) and 481.075. The department's access to the information shall be provided through a secure electronic portal under the exclusive control of the department. The department shall pay all expenses associated with the electronic portal.

(a-4) A law enforcement or prosecutorial official described by Subsection (a)(3) may obtain information submitted to the board under Section 481.074(q) or 481.075 only if the official submits a request to the department. If the department finds that the official has shown proper need for the information, the department shall provide access to the relevant information.

(a-5) Records relating to the access of information by the department or by the department on behalf of a law enforcement agency are confidential, including any information concerning the identities of the investigating agents or agencies. The board may not track or monitor the department's access to information.

(b) This section does not prohibit the board ~~[director]~~ from creating, using, or disclosing statistical data about information submitted to ~~[received by]~~ the board ~~[director]~~ under this section if the board ~~[director]~~ removes any information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information.

(c) The board ~~[director]~~ by rule shall design and implement a system for submission of information to the board ~~[director]~~ by electronic or other means and for retrieval of information submitted to the board ~~[director]~~ under this section and Sections 481.074 and 481.075. The board ~~[director]~~ shall use automated information security techniques and devices to preclude improper access to the information. The board ~~[director]~~ shall submit the system design to the director ~~[Texas State Board of Pharmacy]~~ and the Texas Medical Board for review and ~~[approval or]~~ comment a reasonable time before implementation of the system and shall comply with the comments of those agencies unless it is unreasonable to do so.

(d) Information submitted to the board ~~[director]~~ under this section may be used only for:

(1) the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(2) investigatory or evidentiary purposes in connection with the functions of an agency listed in Subsection (a)(1); or

(3) dissemination by the board ~~[director]~~ to the public in the form of a statistical tabulation or report if all information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information has been removed.

(e) The board ~~[director]~~ shall remove from the information retrieval system, destroy, and make irretrievable the record of the identity of a patient submitted under this section to the board ~~[director]~~ not later than the end of the 36th calendar month after the month in which the identity is entered into the system. However, the board ~~[director]~~ may retain a patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this section until the 30th day after the end of the month in which the necessity for retention of the identity ends.

(g) If the director permits access to information under Subsection (a)(3) ~~[(a)(3)(A)]~~ relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify that agency of the disclosure of the information not later than the 10th working day after the date the information is disclosed.

(i) Information submitted to the board ~~[director]~~ under Section 481.074(q) or 481.075 is confidential and remains confidential regardless of whether the board ~~[director]~~ permits access to the information under this section.

(j) The board may enter into an interoperability agreement with one or more states or an association of states authorizing the board to access prescription monitoring information maintained or collected by the other state or states or the association, including information maintained on a central database such as the National Association of Boards of Pharmacy Prescription Monitoring Program InterConnect. Pursuant to an interoperability agreement, the board may authorize the prescription monitoring program of one or more states or an association of states to access information submitted to the board under Sections 481.074(q) and 481.075,

including by submitting or sharing information through a central database such as the National Association of Boards of Pharmacy Prescription Monitoring Program InterConnect.

(k) A person authorized to access information under Subsection (a)(4) who is registered with the board for electronic access to the information is entitled to directly access the information available from other states pursuant to an interoperability agreement described by Subsection (j).

SECTION 13. Section 481.0761, Health and Safety Code, is amended by amending Subsections (a), (c), (d), (e), and (f) and adding Subsection (g) to read as follows:

(a) The board ~~[director]~~ shall ~~[consult with the Texas State Board of Pharmacy and]~~ by rule establish and revise as necessary a standardized database format that may be used by a pharmacy to transmit the information required by Sections 481.074(q) and 481.075(i) to the board ~~[director]~~ electronically or to deliver the information on storage media, including disks, tapes, and cassettes.

(c) The board ~~[director]~~ by rule may:

(1) permit more than one prescription to be administered or dispensed and recorded on one prescription form for a Schedule III through V controlled substance;

(1-a) establish a procedure for the issuance of multiple prescriptions of a Schedule II controlled substance under Section 481.074(d-1);

(2) remove from or return to the official prescription program any aspect of a practitioner's or pharmacist's hospital practice, including administering or dispensing;

(3) waive or delay any requirement relating to the time or manner of reporting;

(4) establish compatibility protocols for electronic data transfer hardware, software, or format, including any necessary modifications for participation in a database described by Section 481.076(j);

(5) establish a procedure to control the release of information under Sections 481.074, 481.075, and 481.076; and

(6) establish a minimum level of prescription activity below which a reporting activity may be modified or deleted.

(d) The board ~~[director]~~ by rule shall authorize a practitioner to determine whether it is necessary to obtain a particular patient identification number and to provide that number on the official prescription form or in the electronic prescription record.

(e) In adopting a rule relating to the electronic transfer of information under this subchapter, the board ~~[director]~~ shall consider the economic impact of the rule on practitioners and pharmacists and, to the extent permitted by law, act to minimize any negative economic impact, including the imposition of costs related to computer hardware or software or to the transfer of information. ~~[The director may not adopt a rule relating to the electronic transfer of information under this subchapter that imposes a fee in addition to the fees authorized by Section 481.064.]~~

(f) The board ~~[director]~~ may authorize a contract between the board ~~[department]~~ and another agency of this state or a private vendor as necessary to ensure the effective operation of the official prescription program.

(g) The board may adopt rules providing for a person authorized to access information under Section 481.076(a)(5) to be enrolled in electronic access to the information described by Section 481.076(a) at the time the person obtains or renews the person's applicable professional or occupational license or registration.

SECTION 14. Section 481.077(c), Health and Safety Code, is amended to read as follows:

(c) This section and Section 481.078 do not apply to a person to whom a registration has been issued by the Federal Drug Enforcement Agency or who is exempt from such registration [under Section 481.063].

SECTION 15. Section 481.080(d), Health and Safety Code, is amended to read as follows:

(d) This section and Section 481.081 do not apply to a person to whom a registration has been issued by the Federal Drug Enforcement Agency or who is exempt from such registration [under Section 481.063].

SECTION 16. Section 481.124(b), Health and Safety Code, is amended to read as follows:

(b) For purposes of this section, an intent to unlawfully manufacture the controlled substance methamphetamine is presumed if the actor possesses or transports:

(1) anhydrous ammonia in a container or receptacle that is not designed and manufactured to lawfully hold or transport anhydrous ammonia;

(2) lithium metal removed from a battery and immersed in kerosene, mineral spirits, or similar liquid that prevents or retards hydration; or

(3) in one container, vehicle, or building, phenylacetic acid, or more than nine grams, three containers packaged for retail sale, or 300 tablets or capsules of a product containing ephedrine or pseudoephedrine, and:

(A) anhydrous ammonia;

(B) at least three of the following categories of substances commonly used in the manufacture of methamphetamine:

(i) lithium or sodium metal or red phosphorus, iodine, or iodine crystals;

(ii) lye, sulfuric acid, hydrochloric acid, or muriatic acid;

(iii) an organic solvent, including ethyl ether, alcohol, or acetone;

(iv) a petroleum distillate, including naphtha, paint thinner, or charcoal lighter fluid; or

(v) aquarium, rock, or table salt; or

(C) at least three of the following items:

(i) an item of equipment subject to regulation under Section 481.080, if the person is not a registrant [registered under Section 481.063]; or

(ii) glassware, a plastic or metal container, tubing, a hose, or other item specially designed, assembled, or adapted for use in the manufacture, processing, analyzing, storing, or concealing of methamphetamine.

SECTION 17. Section 481.127(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly gives, permits, or obtains unauthorized access to information submitted to the board ~~[director]~~ under Section 481.074(q) or 481.075.

SECTION 18. Sections 481.128(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A registrant or dispenser commits an offense if the registrant or dispenser knowingly:

(1) distributes, delivers, administers, or dispenses a controlled substance in violation of Sections 481.070-481.075;

(2) manufactures a controlled substance not authorized by the person's Federal Drug Enforcement Administration registration or distributes or dispenses a controlled substance not authorized by the person's registration to another registrant or other person;

(3) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by this chapter;

(4) prints, manufactures, possesses, or produces an official prescription form without the approval of the board ~~[director]~~;

(5) delivers or possesses a counterfeit official prescription form;

(6) refuses an entry into a premise for an inspection authorized by this chapter;

(7) refuses or fails to return an official prescription form as required by Section 481.075(k);

(8) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule adopted by the director or the board; or

(9) refuses or fails to maintain security required by this chapter or a rule adopted under this chapter.

(b) If the registrant or dispenser knowingly refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information or maintain security required by a rule adopted by the director or the board, the registrant or dispenser is liable to the state for a civil penalty of not more than \$5,000 for each act.

SECTION 19. Section 481.129(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly:

(1) distributes as a registrant or dispenser a controlled substance listed in Schedule I or II, unless the person distributes the controlled substance as authorized under the federal Controlled Substances Act (21 U.S.C. Section 801 et seq.) ~~[an order form as required by Section 481.069]~~;

(2) uses in the course of manufacturing, prescribing, or distributing a controlled substance a Federal Drug Enforcement Administration registration number that is fictitious, revoked, suspended, or issued to another person;

(3) issues a prescription bearing a forged or fictitious signature;

(4) uses a prescription issued to another person to prescribe a Schedule II controlled substance;

(5) possesses, obtains, or attempts to possess or obtain a controlled substance or an increased quantity of a controlled substance:

(A) by misrepresentation, fraud, forgery, deception, or subterfuge;

(B) through use of a fraudulent prescription form; or

(C) through use of a fraudulent oral or telephonically communicated prescription; or

(6) furnishes false or fraudulent material information in or omits material information from an application, report, record, or other document required to be kept or filed under this chapter.

SECTION 20. Section 481.159(a), Health and Safety Code, is amended to read as follows:

(a) If a district court orders the forfeiture of a controlled substance property or plant under Chapter 59, Code of Criminal Procedure, or under this code, the court shall also order a law enforcement agency to:

(1) retain the property or plant for its official purposes, including use in the investigation of offenses under this code;

(2) deliver the property or plant to a government agency for official purposes;

(3) deliver the property or plant to a person authorized by the court to receive it;

(4) deliver the property or plant to a person authorized by the director to receive it [~~for a purpose described by Section 481.065(a)~~]; or

(5) destroy the property or plant that is not otherwise disposed of in the manner prescribed by this subchapter.

SECTION 21. Section 481.301, Health and Safety Code, is amended to read as follows:

Sec. 481.301. IMPOSITION OF PENALTY. The department may impose an administrative penalty on a person who violates Section [~~481.061, 481.066,~~ 481.067, [~~481.069, 481.074, 481.075,~~ 481.077, 481.0771, 481.078, 481.080, or 481.081 or a rule or order adopted under any of those sections.

SECTION 22. Section 481.352, Health and Safety Code, is amended to read as follows:

Sec. 481.352. MEMBERS. The work group is composed of:

(1) the executive director of the board or the executive director's designee, who serves as chair of the work group;

(2) the commissioner of state health services or the commissioner's designee;

(3) [~~the executive director of the Texas State Board of Pharmacy or the executive director's designee~~;

[~~(4)~~] the executive director of the Texas Medical Board or the executive director's designee;

(4) [~~(5)~~] the executive director of the Texas Board of Nursing or the executive director's designee; [~~and~~]

(5) [~~(6)~~] the executive director of the Texas Physician Assistant Board or the executive director's designee;

(6) the executive director of the Texas Board of Dental Examiners or the executive director's designee;

(7) the executive director of the Texas Optometry Board or the executive director's designee;

(8) the executive director of the Texas Board of Podiatric Medical Examiners or the executive director's designee;

(9) the executive director of the Texas State Board of Veterinary Medical Examiners or the executive director's designee; and

(10) a medical examiner appointed by the board.

SECTION 23. Section 554.006, Occupations Code, is amended to read as follows:

Sec. 554.006. FEES. (a) The board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this subtitle.

(b) The board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of establishing and maintaining the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

(c) The board may assess the fee described by Subsection (b) on individuals or entities authorized to prescribe or dispense controlled substances under Chapter 481, Health and Safety Code, and to access the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

(d) Each agency that licenses individuals or entities authorized to prescribe or dispense controlled substances under Chapter 481, Health and Safety Code, and to access the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code, shall increase the occupational license, permit, or registration fee of the license holders or use available excess revenue in an amount sufficient to operate that program as specified by the board.

(e) A fee collected by an agency under Subsection (d) shall be transferred to the board for the purpose of establishing and maintaining the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

(f) Grants received by the board to implement or operate the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code, may be used by the board to offset or reduce the amount of fees paid by each agency that licenses individuals or entities who are or may be authorized to prescribe or dispense controlled substances under Chapter 481, Health and Safety Code.

SECTION 24. Section 554.051, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The board may adopt rules to administer Sections 481.073, 481.074, 481.075, 481.076, and 481.0761, Health and Safety Code.

SECTION 25. The following provisions are repealed:

(1) Sections 481.061(c) and (d), 481.062(b), 481.063, 481.064, 481.0645, 481.066, and 481.069, Health and Safety Code; and

(2) Section 156.0035, Occupations Code.

SECTION 26. (a) The changes in law made by this Act to Section 481.076, Health and Safety Code, other than the changes made to Subsection (c) of that section, apply only to information submitted or accessed on or after September 1, 2016.

(b) The Texas State Board of Pharmacy may enter into an interoperability agreement described by Section 481.076(j), Health and Safety Code, as added by this Act, before September 1, 2016, but the agreement may not go into effect until on or after September 1, 2016.

SECTION 27. (a) Not later than September 1, 2016, the Department of Public Safety shall transfer all appropriate records received by the department under Sections 481.074(q) and 481.075, Health and Safety Code, regardless of whether the records were received before, on, or after the effective date of this Act, to the Texas State Board of Pharmacy.

(b) A rule, form, policy, procedure, or decision adopted under Chapter 481, Health and Safety Code, as it existed before the effective date of this Act, continues in effect as a rule, form, policy, procedure, or decision and remains in effect until amended or replaced.

(c) A reference in law or an administrative rule to the public safety director of the Department of Public Safety relating to rulemaking authority given and duties transferred to the Texas State Board of Pharmacy by this Act is a reference to the Texas State Board of Pharmacy.

SECTION 28. The Department of Public Safety is responsible for the expenses of the initial implementation and ongoing operation of the secure electronic portal described by Section 481.076(a-3), Health and Safety Code, as added by this Act.

SECTION 29. (a) Except as otherwise provided by this section, this Act takes effect September 1, 2016.

(b) The Texas State Board of Pharmacy shall adopt any rules required by Chapter 481, Health and Safety Code, as amended by this Act, not later than March 1, 2016.

(c) Sections 481.003(a), 481.076(c), 481.0761(a), (e), and (f), and 481.352, Health and Safety Code, as amended by this Act, and Section 481.0761(g), Health and Safety Code, as added by this Act, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, these provisions take effect September 1, 2015.

Floor Amendment No. 1

Amend **CSSB 195** (house committee printing) on page 3, line 11, between "chapter" and the colon, by inserting "without registering with the Federal Drug Enforcement Administration".

The amendments were read.

Senator Schwertner moved to concur in the House amendments to **SB 195**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 530 WITH HOUSE AMENDMENT

Senator Hancock called **SB 530** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 530** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the licensing of vehicles for hire and passenger transportation services by certain airport governing boards; authorizing the imposition of fees; expanding the authorization to require an occupational license; amending a provision subject to a criminal penalty.

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

SECTION 1. Section 22.081, Transportation Code, is amended to read as follows:

Sec. 22.081. ~~[TAXICAB]~~ LICENSING OF VEHICLES FOR HIRE AND PASSENGER TRANSPORTATION SERVICES. (a) A joint board may license taxicabs transporting passengers to or from the airport and impose fees for issuing the licenses.

(b) A joint board for which the constituent agencies are populous home-rule municipalities may:

(1) license vehicles for hire, including taxicabs, and passenger transportation services providing services to or from the airport for compensation; and

(2) impose fees for issuing the licenses.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator Hancock moved to concur in the House amendment to **SB 530**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 735 WITH HOUSE AMENDMENT

Senator Fraser called **SB 735** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 3

Amend **SB 735** (house committee printing) on page 2, between lines 4 and 5, by inserting the following appropriately lettered subsection:

() If a party requests net worth discovery under this section, the court shall presume that the requesting party has had adequate time for the discovery of facts relating to exemplary damages for purposes of allowing the party from whom net worth discovery is sought to move for summary judgment on the requesting party's claim for exemplary damages under Rule 166a(i), Texas Rules of Civil Procedure.

The amendment was read.

Senator Fraser moved to concur in the House amendment to **SB 735**.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Eltife, Estes, Fraser, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti.

Nays: Ellis, Garcia, Menéndez, Rodríguez, Watson, West, Whitmire, Zaffirini.

SENATE BILL 900 WITH HOUSE AMENDMENTS

Senator L. Taylor called **SB 900** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 900** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the operation of the Texas Windstorm Insurance Association.

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

SECTION 1. Section 2210.003, Insurance Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Administrator" means an entity contractually retained to manage the association and administer the plan of operation under Section 2210.062.

(1-a) "Association" means the Texas Coastal [Windstorm] Insurance Association.

SECTION 2. Section 2210.014, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Chapter 542 does not apply to ~~[the processing and settlement of claims by]~~ the association or to an agent or representative of the association.

(c) An administrator contracted under Section 2210.062, if applicable, is an agent of the association for purposes of managing the association and administering the plan of operation under this chapter.

SECTION 3. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.015 to read as follows:

Sec. 2210.015. STUDY OF MARKET INCENTIVES; BIENNIAL REPORTING. (a) Each biennium, the department shall conduct a study of market incentives to promote participation in the voluntary windstorm and hail insurance market in the seacoast territory of this state. The study must address as possible incentives the mandatory or voluntary issuance of windstorm and hail insurance in conjunction with the issuance of a homeowners policy in the seacoast territory.

(b) The department shall include the results of the study conducted under this section in the report submitted under Section 32.022.

SECTION 4. Subchapter B, Chapter 2210, Insurance Code, is amended by adding Section 2210.062 to read as follows:

Sec. 2210.062. ADMINISTRATION BY CONTRACTED ADMINISTRATOR AUTHORIZED. (a) Notwithstanding any other law, if determined by the commissioner to be in the best interest of the policyholders and the public, the commissioner may contract with an administrator to manage the association and administer the plan of operation.

(b) The commissioner shall adopt rules as necessary to implement this section if the commissioner determines management of the association and administration of the plan of operation by an administrator is in the best interest of the policyholders and the public.

(c) The administrator must hold either a managing general agent license issued under Chapter 4053 or a third-party administrator certificate of authority issued under Chapter 4151.

SECTION 5. Subchapter B-1, Chapter 2210, Insurance Code, is amended by amending Section 2210.071 and adding Section 2210.0715 to read as follows:

Sec. 2210.071. PAYMENT OF EXCESS LOSSES[; PAYMENT FROM RESERVES AND TRUST FUND]. ~~[(a)]~~ If, in a catastrophe year, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

Sec. 2210.0715. PAYMENT FROM RESERVES AND TRUST FUND. ~~[(b)]~~ The association shall pay losses in excess of premium and other revenue of the association from available reserves of the association and available amounts in the catastrophe reserve trust fund.

~~[(c) Losses not paid under Subsection (b) shall be paid from the proceeds from public securities issued in accordance with this subchapter and Subchapter M and, notwithstanding Subsection (a), may be paid from the proceeds of public securities issued under Section 2210.072(a) before an occurrence or series of occurrences that results in insured losses.]~~

SECTION 6. Section 2210.072, Insurance Code, is amended to read as follows:

Sec. 2210.072. PAYMENT FROM CLASS 1 PUBLIC SECURITIES ISSUED BEFORE JUNE 1, 2015[; FINANCIAL INSTRUMENTS]. (a) Losses not paid under Section 2210.0715 ~~[Section 2210.071(b)]~~ shall be paid as provided by this section from the proceeds from Class 1 public securities ~~[authorized to be]~~ issued in accordance with Subchapter M on or before June 1, 2015 ~~[before, on, or after the date of any occurrence or series of occurrences that results in insured losses]~~. Public securities described by ~~[issued under]~~ this section must be repaid within a period not to exceed 14 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves.

~~[(b) Public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses:~~

~~[(1) may be issued on the request of the board of directors with the approval of the commissioner; and~~

~~[(2) may not, in the aggregate, exceed \$1 billion at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.~~

~~[(b 1) Public securities described by Subsection (a):~~

~~[(1) shall be issued as necessary in a principal amount not to exceed \$1 billion per catastrophe year, in the aggregate, for securities issued during that catastrophe year before the occurrence or series of occurrences that results in incurred losses in that year and securities issued on or after the date of that occurrence or series of occurrences, and regardless of whether for a single occurrence or a series of occurrences; and~~

~~[(2) subject to the \$1 billion maximum described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.]~~

(c) Public ~~[If public]~~ securities ~~[are]~~ issued as described by this section~~[-the public securities]~~ shall be repaid in the manner prescribed by Subchapter M from association premium revenue.

(d) The association may borrow from, or enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans or other financial instruments to the association to enable the association to pay losses under this section or to obtain public securities under this section. For purposes of this subsection, financial instruments includes commercial paper.

~~[(e) The proceeds of any outstanding public securities described by Subsection (a) that are issued before an occurrence or series of occurrences shall be depleted before the proceeds of any securities issued after an occurrence or series of occurrences may be used. This subsection does not prohibit the association from issuing securities after an occurrence or series of occurrences before the proceeds of outstanding public securities issued during a previous catastrophe year have been depleted.~~

~~[(f) If, under Subsection (e), the proceeds of any outstanding public securities issued during a previous catastrophe year must be depleted, those proceeds shall count against the \$1 billion limit on public securities described by this section in the catastrophe year in which the proceeds must be depleted.]~~

SECTION 7. Subchapter B-1, Chapter 2210, Insurance Code, is amended by adding Section 2210.0725 to read as follows:

Sec. 2210.0725. PAYMENT FROM CLASS 1 ASSESSMENTS. (a) Losses in a catastrophe year not paid under Sections 2210.0715 and 2210.072 shall be paid as provided by this section from Class 1 member assessments not to exceed \$500 million for that catastrophe year.

(b) The association, with the approval of the commissioner, shall notify each member of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

(c) A member of the association may not recoup an assessment paid under this section through a premium surcharge or tax credit.

SECTION 8. Section 2210.073, Insurance Code, is amended to read as follows:

Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES. (a) Losses not paid under Sections 2210.0715, [2210.071 and] 2210.072, and 2210.0725 shall be paid as provided by this section from the proceeds from Class 2 public

securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence or series of occurrences that results in insured losses ~~[under this subsection]~~. Public securities issued under this section must be paid ~~[repaid]~~ within a period not to exceed 10 years~~;~~ and may be paid ~~[repaid]~~ sooner if the board of directors elects to do so and the commissioner approves.

(b) Public securities described by Subsection (a):

(1) shall ~~[may]~~ be issued as necessary in a principal amount not to exceed \$250 million ~~[\$1 billion]~~ per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) subject to the ~~[\$1 billion]~~ maximum described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

(c) If the losses are paid with public securities described by this section, the public securities shall be paid ~~[repaid]~~ in the manner prescribed by Subchapter M.

SECTION 9. Section 2210.074, Insurance Code, is amended to read as follows:

Sec. 2210.074. PAYMENT THROUGH CLASS 2 ASSESSMENTS ~~[3 PUBLIC SECURITIES]~~. (a) Losses in a catastrophe year not paid under Sections 2210.0715, ~~[2210.071,]~~ 2210.072, 2210.0725, and 2210.073 shall be paid as provided by this section from Class 2 member assessments not to exceed \$250 million for that catastrophe year.

(b) The association, with the approval of the commissioner, shall notify each member of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

(c) A member of the association may not recoup an assessment paid under this section through a premium surcharge or tax credit ~~[proceeds from public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under this subsection or through reinsurance as described by Section 2210.075. Public securities issued under this section must be repaid within a period not to exceed 10 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves.]~~

~~[(b) Public securities described by Subsection (a):~~

~~[(1) may be issued as necessary in a principal amount not to exceed \$500 million per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and~~

~~[(2) subject to the \$500 million maximum described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.~~

~~[(c) If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall~~

~~be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association may not recoup an assessment paid under this subsection through a premium surcharge or tax credit].~~

SECTION 10. Subchapter B-1, Chapter 2210, Insurance Code, is amended by adding Sections 2210.0741 and 2210.0742 to read as follows:

Sec. 2210.0741. PAYMENT THROUGH CLASS 3 PUBLIC SECURITIES. (a) Losses not paid under Sections 2210.0715, 2210.072, 2210.0725, 2210.073, and 2210.074 shall be paid as provided by this section from proceeds from public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under this subsection or through reinsurance as described by Section 2210.075. Public securities issued under this section must be paid within a period not to exceed 10 years, and may be paid sooner if the board of directors elects to do so and the commissioner approves.

(b) Public securities described by Subsection (a):

(1) may be issued as necessary in a principal amount not to exceed \$250 million per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) subject to the maximum described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

(c) If the losses are paid with public securities described by this section, the public securities shall be paid in the manner prescribed by Subchapter M.

Sec. 2210.0742. PAYMENT FROM CLASS 3 ASSESSMENTS. (a) Losses in a catastrophe year not paid under Sections 2210.0715, 2210.072, 2210.0725, 2210.073, 2210.074, and 2210.0741 shall be paid as provided by this section from Class 3 member assessments not to exceed \$250 million for that catastrophe year.

(b) The association, with the approval of the commissioner, shall notify each member of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

(c) A member of the association may not recoup an assessment paid under this section through a premium surcharge or tax credit.

SECTION 11. Section 2210.075, Insurance Code, is amended to read as follows:

Sec. 2210.075. REINSURANCE. (a) Before any occurrence or series of occurrences, an insurer may elect to purchase reinsurance to cover an assessment for which the insurer would otherwise be liable under this subchapter [~~Section 2210.074(c)~~].

(b) An insurer must notify the board of directors, in the manner prescribed by the association whether the insurer will be purchasing reinsurance. If the insurer does not elect to purchase reinsurance under this section, the insurer remains liable for any assessment imposed under this subchapter [~~Section 2210.074(c)~~].

SECTION 12. Section 2210.102, Insurance Code, is amended to read as follows:

Sec. 2210.102. COMPOSITION. (a) The board of directors is composed of nine members appointed by the commissioner in accordance with this section.

(b) Three ~~Four~~ members must be representatives of the insurance industry who actively write and renew windstorm and hail insurance in the first tier coastal counties.

(c) Three ~~Four~~ members must, as of the date of the appointment, reside in the first tier coastal counties. Each of the following regions must be represented by a member residing in the region and ~~[At least one of the members]~~ appointed under this subsection:

(1) the region consisting of Cameron, Kenedy, Kleberg, and Willacy Counties;

(2) the region consisting of Aransas, Calhoun, Nueces, Refugio, and San Patricio Counties; and

(3) the region consisting of Brazoria, Chambers, Galveston, Jefferson, and Matagorda Counties and any part of Harris County designated as a catastrophe area under Section 2210.005.

(c-1) One of the members appointed under Subsection (c) must be a property and casualty agent who is licensed under this code and is not a captive agent.

(d) Three members ~~[One member]~~ must represent ~~[be a representative of]~~ an area of this state that is ~~[not]~~ located more than 200 miles from the Texas coastline ~~[in the seacoast territory with demonstrated expertise in insurance and actuarial principles].~~

(e) All members must have demonstrated experience in insurance, general business, or actuarial principles and the member's area of expertise, if any, sufficient to make the success of the association probable.

(f) Insurers who are members of the association shall nominate, from among those members, persons to fill any vacancy in the three ~~[four]~~ board of director seats reserved for representatives of the insurance industry. The board of directors shall solicit nominations from the members and submit the nominations to the commissioner. The nominee slate submitted to the commissioner under this subsection must include at least three more names than the number of vacancies. The commissioner may ~~[shall]~~ appoint replacement insurance industry representatives from the nominee slate.

(g) In addition to the nine members appointed under Subsection (a), the ~~[The]~~ commissioner shall appoint three individuals ~~[one person]~~ to serve as ~~[a]~~ nonvoting ex officio members ~~[member]~~ of the board to advise the board ~~[regarding issues relating to the inspection process. The commissioner may give preference in an appointment under this subsection to a person who is a qualified inspector under Section 2210.254].~~ Each ~~[The]~~ nonvoting member appointed under this section must:

(1) hold an elective office of this state or a political subdivision of this state; and

(2) reside in and represent one of the following areas:

(A) the northern portion of the seacoast territory ~~[be an engineer licensed by, and in good standing with, the Texas Board of Professional Engineers];~~

(B) the southern portion of the seacoast territory ~~[(2) reside in a first tier coastal county]; or [and]~~

(C) an area of this state that is not located in the seacoast territory ~~[(2) be knowledgeable of, and have professional expertise in, wind related design and construction practices in coastal areas that are subject to high winds and hurricanes].~~

(h) The persons appointed under Subsection (g) [(e)] must each reside in a ~~[be from]~~ different area described by Subsection (g)(2) and in different counties.

SECTION 13. Section 2210.103(c), Insurance Code, is amended to read as follows:

(c) A member of the board of directors may be removed by the commissioner with cause stated in writing and posted on the association's website. The commissioner shall appoint a replacement in accordance with ~~[the manner provided by]~~ Section 2210.102 for a member who leaves or is removed from the board of directors.

SECTION 14. The heading to Subchapter J, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER J. CATASTROPHE RESERVE TRUST FUND; [AND]
REINSURANCE AND ALTERNATIVE RISK FINANCING [PROGRAM]

SECTION 15. Section 2210.452, Insurance Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (f) to read as follows:

(a) The commissioner shall adopt rules under which the association makes payments to the catastrophe reserve trust fund. Except as otherwise specifically provided by this section, the [The] trust fund may be used only for purposes directly related to funding the payment of insured losses, including:

(1) funding ~~[to fund]~~ the obligations of the trust fund under Subchapter B-1;
and

(2) purchasing reinsurance or using alternative risk financing mechanisms under Section 2210.453.

(c) At the end of each calendar year or policy year, the association shall use the net gain from operations of the association, including all premium and other revenue of the association in excess of incurred losses, operating expenses, public security obligations, and public security administrative expenses, to make payments to the trust fund, ~~[to]~~ procure reinsurance, or use alternative risk financing mechanisms, or to make payments to the trust fund and ~~[to]~~ procure reinsurance or use alternative risk financing mechanisms.

(d) The commissioner by rule shall establish the procedure relating to the disbursement of money from the trust fund to policyholders and for association administrative expenses directly related to funding the payment of insured losses in the event of an occurrence or series of occurrences within a catastrophe area that results in a disbursement under Subchapter B-1.

(f) The commissioner by rule shall establish the procedure relating to the disbursement of money from the trust fund to pay for operating expenses, including reinsurance or alternative risk financing mechanisms under Section 2210.453, if the association does not have sufficient premium and other revenue.

SECTION 16. Section 2210.453, Insurance Code, is amended to read as follows:

Sec. 2210.453. REINSURANCE AND ALTERNATIVE RISK FINANCING MECHANISMS. (a) The association shall ~~[may:~~

~~[(1) make payments into the trust fund; and~~

~~[(2)] purchase reinsurance or use alternative risk financing mechanisms in an amount not less than the probable maximum loss for the association for a catastrophe year with a probability of one in 100.~~

(b) ~~Any [The association may purchase]~~ reinsurance purchased or alternative risk financing mechanism used under this section operates ~~[that operates]~~ in addition to ~~[or in concert with the trust fund,]~~ public securities, other approved financial instruments, and assessments authorized by this chapter.

(c) ~~The attachment point for reinsurance purchased under this section may not be less than the aggregate amount of all funding available to the association under Subchapter B-1. [If the association does not purchase reinsurance as authorized by this section, the board, not later than June 1 of each year, shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more. The report required by this subsection must:~~

~~[(1) document and denominate the association's resources available to pay claims, including cash or other highly liquid assets, assessments that the association is projected to impose, pre event and post event bonding capacity, and private sector recognized risk transfer mechanisms, including catastrophe bonds and reinsurance;~~

~~[(2) include an independent, third-party appraisal of the likelihood of an assessment, the maximum potential size of the assessment, and an estimate of the probability that the assessment would not be adequate to meet the association's needs; and~~

~~[(3) include an analysis of financing alternatives to assessments that includes the costs of borrowing and the consequences that additional purchase of reinsurance, catastrophe bonds, or other private sector recognized risk transfer instruments would have in reducing the size or potential of assessments.~~

~~[(d) A person who prepares a report required by Subsection (c) may not contract to provide any other service to the association, except for the preparation of similar reports, before the third anniversary of the date the last report prepared by the person under that subsection is submitted.~~

~~[(e) The report submitted under this section is for informational purposes only and does not bind the association to a particular course of action.]~~

SECTION 17. Section 2210.501, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Section 2210.502, maximum liability limits for coverage described by Subsection (b)(1) or (3) may not exceed \$1,500,000.

SECTION 18. Section 2210.602, Insurance Code, is amended by amending Subdivision (4) and adding Subdivisions (3-a) and (4-a) to read as follows:

(3-a) "Class 2 public security trust fund" means the dedicated trust fund established by the board and held by the Texas Treasury Safekeeping Trust Company into which premium surcharges collected under Section 2210.613 for the purpose of paying Class 2 public securities are deposited.

(4) "Class 3 public securities" means public securities authorized to be issued on or after the occurrence of a catastrophic event by Section 2210.0741 [2210.074].

(4-a) "Class 3 public security trust fund" means the dedicated trust fund established by the board and held by the Texas Treasury Safekeeping Trust Company into which premium surcharges collected under Section 2210.6131 for the purpose of paying Class 3 public securities are deposited.

SECTION 19. Section 2210.609, Insurance Code, is amended to read as follows:

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The board and the association shall enter into an agreement under which the association shall provide for the payment of all public security obligations from available funds collected by the association and deposited as required by this subchapter [into the public security obligation revenue fund]. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in accordance with Sections 2210.612, 2210.613, and 2210.6131 ~~[2210.6135, and 2210.6136]~~ as applicable. Class 1, Class 2, or Class 3 public securities may be issued on a parity or subordinate lien basis with other Class 1, Class 2, or Class 3 public securities, respectively.

(b) If any public securities issued under this chapter are outstanding, the authority shall notify the association of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each calendar year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds ~~[assess members of the association under Sections 2210.613 and 2210.6135,]~~ and assess a premium surcharge if necessary.

(c) The association shall deposit all revenue collected under Section 2210.612 in the public security obligation revenue fund, all revenue collected under Section 2210.613 ~~[2210.613(b)]~~ in the Class 2 public security trust fund ~~[premium surcharge trust fund]~~, and all revenue collected under Section 2210.6131 ~~[Sections 2210.613(a) and 2210.6135]~~ in the Class 3 public security [member assessment] trust fund. Money deposited in a fund may be invested as permitted by general law. Money in a fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses. This may include the board establishing funds and accounts with the comptroller that the board determines are necessary to administer and repay the public security obligations. If the association has not transferred amounts sufficient to pay the public security obligations to the board's designated interest and sinking fund in a timely manner, the board may direct the Texas Treasury Safekeeping Trust Company to transfer from the public security

obligation revenue fund, the Class 2 public security ~~[premium surcharge]~~ trust fund, or the Class 3 public security trust fund ~~[member assessment trust fund]~~ to the appropriate account the amount necessary to pay the public security obligation.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, ~~[member assessments]~~ premium surcharges, and amounts on deposit in the public security obligation revenue fund, the Class 2 public security ~~[premium surcharge]~~ trust fund, and the Class 3 public security trust fund ~~[member assessment trust fund]~~, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association ~~[or amounts]~~ from the public security obligation trust fund, the Class 2 public security ~~[premium surcharge]~~ trust fund, and the Class 3 public security trust fund ~~[member assessment trust fund]~~ to the extent provided in the proceedings authorizing the credit agreement.

SECTION 20. Section 2210.610(a), Insurance Code, is amended to read as follows:

(a) Revenues received from the premium surcharges under Sections ~~[Section]~~ 2210.613 and 2210.6131 ~~[and member assessments under Sections 2210.613 and 2210.6135]~~ may be applied only as provided by this subchapter.

SECTION 21. Section 2210.611, Insurance Code, is amended to read as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any calendar year from a premium surcharge under Sections ~~[Section]~~ 2210.613 and 2210.6131 ~~[member assessments under Sections 2210.613 and 2210.6135]~~ that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the funds ~~[public security obligation fund]~~ may, in the discretion of the association, be:

(1) used to pay public security obligations payable in the subsequent calendar year, offsetting the amount of the premium surcharge ~~[and member assessments, as applicable,]~~ that would otherwise be required to be levied for the year under this subchapter;

(2) used to redeem or purchase outstanding public securities; or

(3) deposited in the catastrophe reserve trust fund.

SECTION 22. Section 2210.613, Insurance Code, is amended to read as follows:

Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a) The association shall pay Class 2 public securities issued under Section 2210.073 from:

(1) net premium and other revenue; and

(2) if net premium and other revenue are not sufficient to pay the securities, a catastrophe area premium surcharge collected in accordance with this section.

(b) On approval by the commissioner, the association shall assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). The premium surcharge must be set in an amount sufficient to pay, for

~~the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities [as provided by this section. Thirty percent of the cost of the public securities shall be paid through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association may not recoup an assessment paid under this subsection through a premium surcharge or tax credit].~~

~~[(b) Seventy percent of the cost of the public securities shall be paid by a premium surcharge collected under this section in an amount set by the commissioner. On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess, as provided by this section, a premium surcharge to each policyholder of a policy that is in effect on or after the 180th day after the date the commissioner issues notice of the approval of the public securities. The premium surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds or member assessments and all related expenses on the public securities.]~~

~~(c) The premium surcharge under this section [Subsection (b)] shall be assessed on all policyholders of association policies issued under this chapter [that cover insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. The premium surcharge shall be assessed on each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. A premium surcharge under Subsection (b) applies to:~~

~~[(1) all policies written under the following lines of insurance:~~

~~[(A) fire and allied lines;~~

~~[(B) farm and ranch owners;~~

~~[(C) residential property insurance;~~

~~[(D) private passenger automobile liability and physical damage insurance; and~~

~~and~~

~~[(E) commercial automobile liability and physical damage insurance;~~

~~and~~

~~[(2) the property insurance portion of a commercial multiple peril insurance policy].~~

~~(d) A premium surcharge under this section [Subsection (b)] is a separate charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.~~

~~SECTION 23. Subchapter M, Chapter 2210, Insurance Code, is amended by adding Section 2210.6131 to read as follows:~~

~~Sec. 2210.6131. PAYMENT OF CLASS 3 PUBLIC SECURITIES. (a) The association shall pay Class 3 public securities issued under Section 2210.073 from:~~

(1) net premium and other revenue; and

(2) if net premium and other revenue are not sufficient to pay the securities, a catastrophe area premium surcharge collected in accordance with this section.

(b) On approval by the commissioner, the association shall assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). The premium surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

(c) The premium surcharge under this section shall be assessed on all policyholders of association policies issued under this chapter.

(d) A premium surcharge under this section is a separate charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

SECTION 24. Section 2210.616(a), Insurance Code, is amended to read as follows:

(a) The state pledges for the benefit and protection of financing parties, the board, and the association that the state will not take or permit any action that would:

(1) impair the collection of ~~[member assessments and]~~ premium surcharges or the deposit of those funds into the applicable ~~[member assessment trust fund or premium surcharge]~~ trust fund;

(2) reduce, alter, or impair the ~~[member assessments or]~~ premium surcharges to be imposed, collected, and remitted to financing parties until the principal, interest, and premium, and any other charges incurred and contracts to be performed in connection with the related public securities, have been paid and performed in full; or

(3) in any way impair the rights and remedies of the public security owners until the public securities are fully discharged.

SECTION 25. Section 2210.6165, Insurance Code, is amended to read as follows:

Sec. 2210.6165. PROPERTY RIGHTS. If public securities issued under this subchapter are outstanding, the rights and interests of the association, a successor to the association, any member of the association, or any member of the Texas FAIR Plan Association, including the right to impose, collect, and receive a premium surcharge ~~[or a member assessment]~~ authorized under this subchapter, are only contract rights until those revenues are first pledged for the repayment of the association's public security obligations as provided by Section 2210.609.

SECTION 26. The following provisions of the Insurance Code are repealed:

(1) Sections 2210.602(5-a), (6), (6-b), and (6-c);

(2) Section 2210.605(c); and

(3) Sections 2210.6135 and 2210.6136.

SECTION 27. (a) The board of directors of the Texas Windstorm Insurance Association established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, is abolished effective October 1, 2015.

(b) The commissioner shall appoint the members of the board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act, effective October 1, 2015. The initial directors shall draw lots to achieve staggered terms, with three of the directors serving one-year terms, three of the directors serving two-year terms, and three of the directors serving three-year terms.

(c) The term of a person who is serving as a member of the board of directors of the Texas Windstorm Insurance Association immediately before the abolition of that board under Subsection (a) of this section expires on October 1, 2015. Such a person is eligible for appointment by the commissioner to the new board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act.

(d) It is the intent of the legislature that each member of the legislative oversight board appointed under Section 2210.652, Insurance Code, and serving on the effective date of this Act continues to serve after the effective date of this Act until a successor is appointed under that section.

SECTION 28. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

Floor Amendment No. 1

Amend **CSSB 900** (house committee printing) as follows:

(1) On page 1, lines 11-12, strike "Coastal [~~Windstorm~~]" and substitute "Windstorm".

(2) On page 9, lines 9-10, between "any occurrence" and "that results", insert "or series of occurrences".

(3) On page 9, lines 10-11, strike "under this subsection or through reinsurance as described by Section 2210.075".

(4) On page 23, line 8, strike "2210.073" and substitute "2210.0741".

Floor Amendment No. 2

Amend **CSSB 900** (house committee printing) as follows:

(1) On page 3, line 10, strike "[~~(b)~~]" and substitute "(a) [~~(b)~~]".

(2) On page 3, between lines 14 and 15, insert the following:

(b) Proceeds of Class 1 public securities issued before the date of any occurrence or series of occurrences that results in insured losses may not be included in available reserves for purposes of this section.

(3) Strike page 3, line 23, through page 5, line 24, and substitute the following:

Sec. 2210.072. PAYMENT FROM CLASS 1 PUBLIC SECURITIES; FINANCIAL INSTRUMENTS. (a) Losses not paid under Section 2210.0715 [~~Section 2210.071(b)~~] shall be paid as provided by this section from the proceeds from Class 1 public securities [~~authorized to be~~] issued in accordance with Subchapter M before, on, or after the date of any occurrence or series of occurrences that results in insured losses. Public securities described by [~~issued under~~] this section must be paid [~~repaid~~] within a period not to exceed 14 years, and may be paid [~~repaid~~] sooner if the board of directors elects to do so and the commissioner approves.

(b) Public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses:

(1) may be issued on the request of the board of directors with the approval of the commissioner; and

(2) may not, in the aggregate, exceed \$500 million ~~[\$1 billion]~~ at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

(b-1) Public securities described by Subsection (a):

(1) shall be issued as necessary in a principal amount not to exceed \$500 million ~~[\$1 billion]~~ per catastrophe year, in the aggregate, for securities issued during that catastrophe year before the occurrence or series of occurrences that results in incurred losses in that year and securities issued on or after the date of that occurrence or series of occurrences, and regardless of whether for a single occurrence or a series of occurrences; and

(2) subject to the ~~[\$1 billion]~~ maximum described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

(c) If public securities are issued as described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M ~~[from association premium revenue]~~.

(d) The association may borrow from, or enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans or other financial instruments to the association to enable the association to pay losses under this section or to obtain public securities under this section. For purposes of this subsection, financial instruments includes commercial paper.

(e) The proceeds of any outstanding public securities described by Subsection (a) that are issued before an occurrence or series of occurrences, together with the proceeds of any outstanding Class 1 public securities issued on or before June 1, 2015, shall be depleted before the proceeds of any securities issued after an occurrence or series of occurrences may be used. This subsection does not prohibit the association from issuing securities after an occurrence or series of occurrences before the proceeds of outstanding public securities issued during a previous catastrophe year have been depleted.

(f) If, under Subsection (e), the proceeds of any outstanding public securities issued during a previous catastrophe year, together with the proceeds of any outstanding Class 1 public securities issued on or before June 1, 2015, must be depleted, those proceeds shall count against the ~~[\$1 billion]~~ limit on public securities described by this section in the catastrophe year in which the proceeds must be depleted.

(4) On page 9, line 8, strike "proceeds from public" and substitute "the proceeds from Class 3 public".

(5) On page 9, line 16, strike "may" and substitute "shall".

(6) On page 13, add the following appropriately numbered SECTION:

SECTION _____. Section 2210.355(b), Insurance Code, is amended to read as follows:

(b) In adopting rates under this chapter, the following must be considered:

(1) the past and prospective loss experience within and outside this state of hazards for which insurance is made available through the plan of operation, if any;

(2) expenses of operation, including acquisition costs;

(3) a reasonable margin for profit and contingencies;

(4) payment of public security obligations ~~[for Class 1 public securities]~~ issued under this chapter, including the additional amount of any debt service coverage determined by the association to be required for the issuance of marketable public securities; and

(5) all other relevant factors, within and outside this state.

(7) On page 15, strike lines 2-13 and substitute the following:

Sec. 2210.453. FUNDING LEVELS; REINSURANCE AND ALTERNATIVE RISK FINANCING MECHANISMS. (a) The association may~~[-~~

~~(1) make payments into the trust fund; and~~

(2) purchase reinsurance or use alternative risk financing mechanisms or both as necessary.

(b) The association shall maintain total available loss funding in an amount not less than the probable maximum loss for the association for a catastrophe year with a probability of one in 100. If necessary, the required funding level shall be achieved through the ~~[may]~~ purchase of reinsurance or the use of alternative financing mechanisms, or both, to operate ~~[that operates]~~ in addition to or in concert with the trust fund, public securities, financial instruments, and assessments authorized by this chapter.

(8) On page 16, strike lines 22-26.

(9) On page 17, line 1, strike "Subdivisions (3-a)" and substitute "Subdivisions (2-a), (3-a)".

(10) On page 17, between lines 2 and 3, insert the following:

(2-a) "Class 1 public security trust fund" means the dedicated trust fund established by the board and held by the Texas Treasury Safekeeping Trust Company into which premium surcharges collected under Section 2210.612 for the purpose of paying Class 1 public securities are deposited.

(11) On page 18, line 14, strike "public security obligation revenue" and substitute "Class 1 public security trust ~~[public security obligation revenue]~~".

(12) On page 19, lines 4-5, strike "public security obligation revenue" and substitute "Class 1 public security trust ~~[public security obligation revenue]~~".

(13) On page 19, line 13, strike "public security obligation revenue" and substitute "Class 1 public security trust ~~[public security obligation revenue]~~".

(14) On page 19, line 20, strike "public security obligation" and substitute "Class 1 public security ~~[obligation]~~".

(15) On page 20, line 1, strike "[Section] 2210.613" and substitute "2210.612, [Section] 2210.613".

(16) On page 20, line 8, strike "[Section] 2210.613" and substitute "2210.612, [Section] 2210.613".

(17) On page 20, between lines 21 and 22, insert the following appropriately numbered SECTION:

SECTION _____. Section 2210.612, Insurance Code, is amended to read as follows:

Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a) The association shall pay Class 1 public securities issued under Section 2210.072 from:

(1) ~~its~~ net premium and other revenue; and

(2) if net premium and other revenue are not sufficient to pay the securities, a catastrophe area premium surcharge collected in accordance with this section.

(b) On approval by the commissioner, the association shall assess, as provided by this section, a premium surcharge to each policyholder of a policy described by Subsection (c). The premium surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

(c) The premium surcharge under this section shall be assessed on all policyholders of association policies issued under this chapter.

(d) A premium surcharge under this section is a separate charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

(e) The association may enter financing arrangements as described by Section 2210.072(d) as necessary to obtain public securities issued under Section 2210.072. Nothing in this subsection shall prevent the authorization and creation of one or more programs for the issuance of commercial paper before the date of an occurrence or series of occurrences that results in insured losses under Section 2210.072(a).

(18) On page 23, line 5, strike "Section 2210.6131" and substitute "Sections 2210.6131 and 2210.6132".

(19) On page 23, following line 27, insert the following:

Sec. 2210.6132. CONTINGENT SOURCE OF PAYMENT FOR CLASS 2 AND CLASS 3 PUBLIC SECURITIES. (a) The commissioner may determine, in consultation with the board and the authority, that:

(1) the authority is unable to issue Class 2 or Class 3 public securities to be payable under Section 2210.613 or 2210.6131, as applicable; or

(2) the issuance of Class 2 or Class 3 public securities to be payable under Section 2210.613 or 2210.6131, as applicable, is financially unreasonable for the association.

(b) If the commissioner makes a determination under Subsection (a), the commissioner shall order the Class 2 or Class 3 public securities, as applicable, to be paid by a premium surcharge assessed by each insurer, the association, and the Texas FAIR Plan Association on all policyholders of policies that are in effect on or after the 180th day after the date the commissioner issues the order. The premium surcharge must be set in an amount sufficient to pay all debt service not already covered by available funds and all related expenses on the public securities.

(c) The premium surcharge under this section shall be assessed on all policyholders of policies that cover insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. The premium surcharge shall be assessed on each Texas windstorm and hail insurance policy and

each property and casualty policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. A premium surcharge under Subsection (b) applies to:

(1) all policies written under the following lines of insurance:

(A) fire and allied lines;

(B) farm and ranch owners;

(C) residential property insurance;

(D) private passenger automobile liability and physical damage insurance; and

(E) commercial automobile liability and physical damage insurance;

and

(2) the property insurance portion of a commercial multiple peril insurance policy.

(20) On page 25, strike line 5 and substitute the following:

(1) Sections 2210.602(5-a), (6), (6-b), (6-c), and (10);

(21) On page 26, add the following appropriately numbered SECTION:

SECTION _____. Subchapter M, Chapter 2210, Insurance Code, as it existed before the effective date of this Act, is applicable to bond obligations incurred under Chapter 2210, Insurance Code, before the effective date of this Act, and that law is continued in effect for that purpose.

(22) Renumber SECTIONS of the bill appropriately.

Floor Amendment No. 3

Amend **CSSB 900** (house committee printing) as follows:

(1) On page 10, line 24, between "is amended" and "to", insert "by amending Subsections (b), (c), (d), (e), and (f) and adding Subsection (c-1)".

(2) Strike page 10, line 26, through page 11, line 1.

(3) On page 11, line 20, strike "represent" and substitute "reside in".

(4) On page 11, line 22, strike "200" and substitute "100".

(5) Strike page 12, line 12, through page 13, line 9.

(6) On page 25, between lines 4 and 5, insert the following appropriately numbered subdivision and renumber the subsequent subdivisions accordingly:

() Sections 2210.102(g) and (h);

Floor Amendment No. 4

Amend **CSSB 900** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2210.258, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsections ~~[Subsection]~~ (c) and (d) and Section 2210.2581 and notwithstanding any other provision of this chapter, to be eligible for insurance through the association, all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area that is begun on or after the effective date of Sections 5 through 49, H.B. No. 4409, Acts of the 81st Legislature, Regular Session, 2009, must be performed in compliance with the applicable building code standards, as set forth in the plan of operation.

(b) Except as provided by Subsections ~~[Subsection]~~ (c) and (d), the association may not insure a structure described by Subsection (a) until:

(1) the structure has been inspected for compliance with the plan of operation in accordance with Section 2210.251(a); and

(2) a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g).

(d) The association may insure a structure described by Subsection (a) for a policy term not to exceed 30 days if an inspection verification form or other inspection form adopted by the department has been issued for the structure for purposes of providing temporary coverage while an applicant seeks to secure a certificate of compliance for the structure if the structure is otherwise insurable property.

SECTION _____. Section 2210.2581, Insurance Code, is amended to read as follows:

Sec. 2210.2581. MANDATORY COMPLIANCE WITH BUILDING STANDARDS; CERTAIN STRUCTURES. Except as provided by Sections ~~[Section]~~ 2210.251(d) and (e) and Section 2210.258(d), and notwithstanding Sections 2210.258(a), (b), and (c) ~~[Section 2210.258]~~ or any other provision of this chapter, on and after December 31, 2015, the association may not issue or renew insurance coverage for a structure unless the structure complies with the applicable building code standards in effect on the date the construction, alteration, remodeling, enlargement, or repair of, or addition to, the structure begins, as set forth in the plan of operation.

Floor Amendment No. 6

Amend **CSSB 900** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter J, Chapter 2210, Insurance Code, is amended by adding Section 2210.4521 to read as follows:

Sec. 2210.4521. INVESTMENT OF TRUST FUND BALANCES. (a) The comptroller shall invest in accordance with the investment standard described by Section 404.024(j), Government Code, the portion of the trust fund balance that exceeds the amount of the sufficient balance determined under Subsection (b). The comptroller's investment of that portion of the balance is not subject to any other limitation or other requirement provided by Section 404.024, Government Code.

(b) At least once each 12-month period, the board of directors shall determine a balance for the trust fund that the board considers to be sufficient to meet the cash flow requirements of the fund in funding the payment of insured losses as provided by Section 2210.452(a). After determining that sufficient balance, the board shall provide notice of the sufficient balance to the comptroller.

(c) Not later than the 30th day after the date the board of directors provides notice of the sufficient balance determined under Subsection (b), the comptroller shall adjust the investment portfolio of trust fund money to ensure that only the portion of the fund that exceeds the sufficient balance is invested as required by Subsection (a).

(d) The comptroller shall include the fair market value of the investment portfolio of the trust fund in calculating the amount in the fund for purposes of this chapter.

Floor Amendment No. 7

Amend **CSSB 900** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering SECTIONS of the bill accordingly:

SECTION _____. Chapter 2210, Insurance Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. DEPOPULATION PROGRAM

Sec. 2210.701. DEPOPULATION PROGRAM. (a) The association shall administer, subject to commissioner approval, a depopulation program that encourages the transfer of association policies to insurers through the voluntary market or assumption reinsurance.

(b) An insurer engaged in the business of property and casualty insurance in this state may elect to participate in the depopulation program.

Sec. 2210.702. ASSUMPTION REINSURANCE DEPOPULATION. (a) The association shall make available to insurers who elect to participate in the depopulation program association policy information necessary for the insurers to determine whether to reinsure a policy ceded to the insurer by the association. The commissioner shall by rule establish the information that is necessary to provide to an insurer under this subsection.

(b) If an insurer elects to reinsure a policy under this section, the reinsurance must be provided as assumption reinsurance by novation and the insurer is legally and contractually responsible for the association policy ceded to the insurer on the effective date of the reinsurance agreement regardless of whether the association continues to provide some services on the policy. The association is not liable under the policy on and after the effective date of the assumption reinsurance agreement. Except as specifically provided in an agreement between the association and the insurer, the insurer shall administer the policy and process, adjust, and pay claims in accordance with the policy.

(c) If an insurer elects to provide reinsurance under this section, the insurer shall comply with the applicable provisions of Chapters 202 and 493.

Sec. 2210.703. RENEWAL OF REINSURED POLICIES; COMPARABLE COVERAGE. (a) An insurer electing to offer a policy under Section 2210.702 shall offer a renewal of that policy to the association policyholder for each of the next three years subject to the insurer's rate and underwriting guidelines as filed under this code.

(b) An insurer may not offer a policy to an association policyholder under this section unless the policy contains generally comparable coverage and premiums to the association policy as determined by commissioner rule. The premiums for a policy of generally comparable coverage may not exceed 115 percent of the premiums for the association policy.

(c) Subchapter L-1 does not apply to a policy renewed under this section.

Sec. 2210.704. CONFIDENTIALITY OF INFORMATION; USE OF POLICYHOLDER'S AGENT. (a) An insurer may use information concerning a specific policy or insured provided by the association under Section 2210.702(a) only for the purposes of this subchapter and may not use or disclose the information for any other purpose.

(b) If an insurer elects to renew a policy for an association policyholder identified from information provided to the insurer under Section 2210.702, the insurer must offer the policy through the insurance agent of record for the association policyholder under the prevailing terms, conditions, and commissions of the agent.

Sec. 2210.705. TRANSFER OF POLICIES. The commissioner shall by rule establish the procedure for the transfer of reinsured policies. The rule must provide that a reinsurance agreement include:

(1) an offer commencement date of December 1;

(2) the opportunity for the policy holder to opt-out of the reinsurance agreement on or before May 31;

(3) a transfer of the earned premium on a reinsured policy to a trust account to be held until the expiration of the opt-out period described by Subdivision (2) when the earned premium for the final reinsured policy will be transferred to the reinsurer;

(4) a period of not less than 60 days for the agent of record to accept an appointment or other written agreement with the reinsurer; and

(5) any other requirements as the commissioner determines necessary for the protection of policyholders and the policyholders' agents.

SECTION ____. As soon as practicable after the effective date of this Act, the board of directors of the Texas Windstorm Insurance Association shall propose amendments to the plan of operation of the association and the commissioner of insurance shall adopt rules to implement Subchapter O, Chapter 2210, Insurance Code, as added by this Act.

Floor Amendment No. 1 on Third Reading

Amend **SB 900** on third reading in added Section 2210.704, Insurance Code, by adding the following appropriately lettered subsection and relettering subsequent subsections of Section 2210.704, Insurance Code, and any cross references to those subsections accordingly:

() An insurer that offers to renew a policy under Section 2210.703 shall allow the policyholder's agent to enter into a limited service agreement with the insurer for the agent to continue to provide services to the policyholder.

The amendments were read.

Senator L. Taylor moved to concur in the House amendments to **SB 900**.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Bettencourt, Birdwell, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hinojosa, Huffman, Kolkhorst, Lucio, Menéndez, Nichols, Rodríguez, Schwertner, Seliger, L. Taylor, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Hall, Huffines, Nelson, Perry, V. Taylor, Uresti.

SENATE BILL 1189 WITH HOUSE AMENDMENT

Senator Seliger called **SB 1189** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1189** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a multidisciplinary studies associate degree program at each public junior college.

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

SECTION 1. Subchapter A, Chapter 130, Education Code, is amended by adding Section 130.0104 to read as follows:

Sec. 130.0104. MULTIDISCIPLINARY STUDIES ASSOCIATE DEGREE PROGRAM. (a) The governing board of each public junior college district shall establish a multidisciplinary studies associate degree program at each junior college in the district.

(b) A multidisciplinary studies associate degree program established at a junior college under this section must require a student to successfully complete:

(1) the junior college's core curriculum adopted under Section 61.822(b);
and

(2) after completion of the core curriculum under Subdivision (1), the courses selected by the student in the student's degree plan completed under Subsection (c).

(c) Notwithstanding Section 51.9685, before the beginning of the regular semester or term immediately following the semester or term in which a student successfully completes a cumulative total of 30 or more semester credit hours for coursework in a multidisciplinary studies associate degree program established under this section, the student must meet with an academic advisor to complete a degree plan, as defined by Section 51.9685(a)(1), that:

(1) accounts for all remaining credit hours required for the completion of the degree program; and

(2) emphasizes:

(A) the student's transition to a particular four-year college or university that the student chooses; and

(B) preparations for the student's intended field of study or major at the four-year college or university.

(d) The coordinating board shall adopt rules as necessary for the administration of this section, including rules ensuring that:

(1) a multidisciplinary studies associate degree program is established at each public junior college; and

(2) the common application form adopted under Section 51.762 contains a description of multidisciplinary studies associate degree programs established under this section.

SECTION 2. (a) The Texas Higher Education Coordinating Board shall adopt the rules required by Section 130.0104, Education Code, as added by this Act, as soon as practicable after the effective date of this Act. For that purpose, the coordinating board may adopt the initial rules in the manner provided by law for emergency rules.

(b) The governing board of each public junior college district shall offer a multidisciplinary studies associate degree program at each junior college in the district as required by Section 130.0104, Education Code, as added by this Act, beginning with the 2016 fall semester.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator Seliger moved to concur in the House amendment to **SB 1189**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1171 WITH HOUSE AMENDMENT

Senator Nichols called **SB 1171** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1 on Third Reading

Amend **SB 1171** as follows:

(1) On page 3, line 1 strike "forestry" and substitute "or forestry".

The amendment was read.

Senator Nichols moved to concur in the House amendment to **SB 1171**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 158 WITH HOUSE AMENDMENTS

Senator West called **SB 158** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 158** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to a body worn camera program for certain law enforcement agencies in this state; creating a criminal offense; authorizing a fee.

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

SECTION 1. Chapter 1701, Occupations Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. BODY WORN CAMERA PROGRAM

Sec. 1701.651. DEFINITIONS. In this subchapter:

(1) "Body worn camera" means a recording device that is:

(A) capable of recording, or transmitting to be recorded remotely, video or audio; and

(B) worn on the person of a peace officer, which includes being attached to the officer's clothing or worn as glasses.

(2) "Department" means the Department of Public Safety of the State of Texas.

(3) "Private space" means a location in which a person has a reasonable expectation of privacy, including a person's home.

Sec. 1701.652. GRANTS FOR BODY WORN CAMERAS. (a) A police department of a municipality in this state, a sheriff of a county in this state who has received the approval of the commissioners court for the purpose, or the department may apply to the office of the governor for a grant to defray the cost of implementing this subchapter and to equip peace officers with body worn cameras if that law enforcement agency employs officers who:

(1) are engaged in traffic or highway patrol or otherwise regularly detain or stop motor vehicles; or

(2) are primary responders who respond directly to calls for assistance from the public.

(b) The office of the governor shall set deadlines for applications for grants under this chapter.

(c) Except as provided by Subsection (d), the office of the governor shall create and implement a matching grant program under which matching funds from federal, state, local, and other funding sources may be required as a condition of the grant. A law enforcement agency that receives a grant under this section is required to match 25 percent of the grant money.

(d) The department is eligible for grants under this subchapter but may not be made subject to any requirement for matching funds.

(e) The governor's office may conditionally award a grant to a law enforcement agency that has not adopted and implemented the policy under Section 1701.655 or implemented the training required under Section 1701.656, but money may not be disbursed to a law enforcement agency until the agency fully complies with those sections.

Sec. 1701.653. REPORTING. (a) As a condition of receiving a grant under this subchapter, a law enforcement agency annually shall report to the commission regarding the costs of implementing a body worn camera program, including all known equipment costs and costs for data storage.

(b) The commission shall compile the information submitted under Subsection (a) into a report and submit the report to the office of the governor and the legislature not later than December 1 of each year.

Sec. 1701.654. INTERAGENCY OR INTERLOCAL CONTRACTS. A law enforcement agency in this state may enter into an interagency or interlocal contract to receive body worn camera services and have the identified operations performed through a program established by the Department of Information Resources.

Sec. 1701.655. BODY WORN CAMERA POLICY. (a) A law enforcement agency that receives a grant to provide body worn cameras to its peace officers or that otherwise operates a body worn camera program shall adopt a policy for the use of body worn cameras.

(b) A policy described by Subsection (a) must ensure that a body worn camera is activated only for a law enforcement purpose and must include:

(1) guidelines for when a peace officer should activate a camera or discontinue a recording currently in progress, considering the need for privacy in certain situations and at certain locations;

(2) provisions relating to data retention, including a provision requiring the retention of video for a minimum period of 90 days;

(3) provisions relating to storage of video and audio, creation of backup copies of the video and audio, and maintenance of data security;

(4) guidelines for public access, through open records requests, to recordings that are public information;

(5) provisions entitling an officer to access any recording of an incident involving the officer before the officer is required to make a statement about the incident;

(6) procedures for supervisory or internal review; and

(7) the handling and documenting of equipment and malfunctions of equipment.

(c) A policy described by Subsection (a) may not require a peace officer to keep a body worn camera activated for the entire period of the officer's shift.

(d) A policy adopted under this section must be consistent with the Federal Rules of Evidence and Texas Rules of Evidence.

Sec. 1701.656. TRAINING. (a) Before a law enforcement agency may operate a body worn camera program, the agency must provide training to:

(1) peace officers who will wear the body worn cameras; and

(2) any other personnel who will come into contact with video and audio data obtained from the use of body worn cameras.

(b) The commission, in consultation with the department, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth Jr. Police Institute at Dallas, and the Texas Police Chiefs Association, shall develop or approve a curriculum for a training program under this section.

Sec. 1701.657. RECORDING INTERACTIONS WITH THE PUBLIC. (a) A peace officer equipped with a body worn camera shall act in a manner that is consistent with the policy of the law enforcement agency that employs the officer with respect to when and under what circumstances a body worn camera must be activated.

(b) A peace officer equipped with a body worn camera may choose not to activate a camera or may choose to discontinue a recording currently in progress for any nonconfrontational encounter with a person, including an interview of a witness or victim.

(c) A peace officer who does not activate a body worn camera in response to a call for assistance must include in the officer's incident report or otherwise note in the case file or record the reason for not activating the camera.

(d) Any justification for failing to activate the body worn camera because it is unsafe, unrealistic, or impracticable is based on whether a reasonable officer under the same or similar circumstances would have made the same decision.

Sec. 1701.658. USE OF PERSONAL EQUIPMENT. (a) If a law enforcement agency receives a grant under this subchapter, a peace officer who is employed by the agency and who is on duty may only use a body worn camera that is issued and maintained by that agency.

(b) Notwithstanding any previous policies, an agency may not allow its peace officers to use privately owned body worn cameras after receiving a grant under this subchapter.

(c) A peace officer who is employed by a law enforcement agency that has not received a grant or who has not otherwise been provided with a body worn camera by the agency that employs the officer may operate a body worn camera that is privately owned only if permitted by the employing agency.

(d) An agency that authorizes the use of privately owned body worn cameras under Subsection (c) must make provisions for the security and compatibility of the recordings made by those cameras.

Sec. 1701.659. OFFENSE. (a) A peace officer or other employee of a law enforcement agency commits an offense if the officer or employee releases a recording created with a body worn camera under this subchapter without permission of the applicable law enforcement agency.

(b) An offense under this section is a Class A misdemeanor.

Sec. 1701.660. RECORDINGS AS EVIDENCE. (a) Except as provided by Subsection (b), a recording created with a body worn camera and documenting an incident that involves the use of deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer may not be deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded.

(b) A law enforcement agency may release to the public a recording described by Subsection (a) if the law enforcement agency determines that the release furthers a law enforcement purpose.

(c) This section does not affect the authority of a law enforcement agency to withhold under Section 552.108, Government Code, information related to a closed criminal investigation that did not result in a conviction or a grant of deferred adjudication community supervision.

Sec. 1701.661. RELEASE OF INFORMATION RECORDED BY BODY WORN CAMERA. (a) A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- (1) the date and approximate time of the recording;
- (2) the specific location where the recording occurred; and
- (3) the name of one or more persons known to be a subject of the recording.

(b) A failure to provide all of the information required by Subsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.

(c) Except as provided by Subsection (d), information recorded by a body worn camera and held by a law enforcement agency under this subchapter is not subject to the requirements of Section 552.021, Government Code.

(d) Information that is or could be used as evidence in a criminal prosecution is subject to the requirements of Section 552.021, Government Code.

(e) A law enforcement agency may:

(1) seek to withhold information subject to Subsection (d) in accordance with procedures provided by Section 552.301, Government Code;

(2) assert any exceptions to disclosure in Chapter 552, Government Code, or other law; or

(3) release information requested in accordance with Subsection (a) after the agency redacts any information made confidential under Chapter 552, Government Code, or other law.

(f) A law enforcement agency may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

(g) The attorney general shall set a proposed fee to be charged to members of the public who seek to obtain a copy of a recording under this section. The fee amount must be sufficient to cover the cost of reviewing and making the recording. A law enforcement agency may provide a copy without charge or at a reduced charge if the agency determines that waiver or reduction of the charge is in the public interest.

Sec. 1701.662. BODY WORN CAMERA RECORDINGS; REQUEST FOR ATTORNEY GENERAL DECISION. (a) Notwithstanding Section 552.301(b), Government Code, a governmental body's request for a decision from the attorney general about whether a requested body worn camera recording falls within an exception to public disclosure is considered timely if made not later than the 20th business day after the date of receipt of the written request.

(b) Notwithstanding Section 552.301(d), Government Code, a governmental body's response to a requestor regarding a requested body worn camera recording is considered timely if made not later than the 20th business day after the date of receipt of the written request.

(c) Notwithstanding Section 552.301(e), Government Code, a governmental body's submission to the attorney general of the information required by that subsection regarding a requested body worn camera recording is considered timely if made not later than the 25th business day after the date of receipt of the written request.

(d) Notwithstanding Section 552.301(e-1), Government Code, a governmental body's submission to a requestor of the information required by that subsection regarding a requested body worn camera recording is considered timely if made not later than the 25th business day after the date of receipt of the written request.

Sec. 1701.663. PRODUCTION OF BODY WORN CAMERA RECORDING IN RESPONSE TO VOLUMINOUS PUBLIC INFORMATION REQUESTS.

(a) Notwithstanding Section 552.221(d), Government Code, an officer for public information who is employed by a governmental body and who receives a

voluminous request in accordance with Section 1701.661(a) is considered to have promptly produced the information for purposes of Section 552.221, Government Code, if the officer takes the actions required under Section 552.221 before the 21st business day after the date of receipt of the written request.

(b) For purposes of this section, "voluminous request" includes:

(1) a request for body worn camera recordings from more than five separate incidents;

(2) more than five separate requests for body worn camera recordings from the same person in a 24-hour period, regardless of the number of incidents included in each request; or

(3) a request or multiple requests from the same person in a 24-hour period for body worn camera recordings that, taken together, constitute more than five total hours of video footage.

SECTION 2. (a) The Texas Commission on Law Enforcement, in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth Jr. Police Institute at Dallas, and the Texas Police Chiefs Association, shall develop or approve a curriculum for the training program required under Section 1701.656, Occupations Code, as added by this Act, not later than January 1, 2016.

(b) A law enforcement agency operating a body worn camera program on the effective date of this Act may submit any existing policy of the agency regarding the use of body worn cameras to the Texas Commission on Law Enforcement to determine whether the policy complies with Section 1701.655, Occupations Code, as added by this Act.

(c) Notwithstanding Sections 1701.655 and 1701.656, Occupations Code, as added by this Act, a law enforcement agency operating a body worn camera program on the effective date of this Act is not required to adopt or implement a policy that complies with Section 1701.655 or implement the training program required under Section 1701.656 before September 1, 2016.

SECTION 3. This Act takes effect September 1, 2015.

Floor Amendment No. 1

Amend **CSSB 158** (house committee printing) in SECTION 1 of the bill, in added Section 1701.661, Occupations Code, by adding the following new subsection, appropriately lettered, to that section and redesignating subsequent subsections of Section 1701.661, Occupations Code, and cross references to those subsections, accordingly:

() A recording is confidential and excepted from the requirements of Chapter 552, Government Code, if the recording:

(1) was not required to be made under this subchapter or another law or under a policy adopted by the appropriate law enforcement agency; and

(2) does not relate to a law enforcement purpose.

The amendments were read.

Senator West moved to concur in the House amendments to **SB 158**.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Bettencourt, Birdwell, Ellis, Eltife, Estes, Fraser, Garcia, Hinojosa, Huffines, Huffman, Lucio, Menéndez, Nelson, Perry, Rodríguez, Schwertner, Seliger, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Campbell, Creighton, Hall, Hancock, Kolkhorst, Nichols, L. Taylor.

SENATE BILL 1436 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 1436** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1436** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the setback requirements for a junkyard or an automotive wrecking and salvage yard; amending provisions subject to a criminal penalty.

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

SECTION 1. Section 396.022(a), Transportation Code, is amended to read as follows:

- (a) A junkyard or an automotive wrecking and salvage yard may not be located:
- (1) within 50 feet of the right-of-way of a public street or [?] state highway;
 - [?] or
 - (2) within 50 feet of the nearest property line of a residence.

SECTION 2. Section 396.022(a), Transportation Code, as amended by this Act, applies only to a junkyard or an automotive wrecking and salvage yard that begins operating on or after the effective date of this Act. A junkyard or an automotive wrecking and salvage yard operating before the effective date of this Act is governed by the law applicable immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1436**.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Perry, Rodríguez, Schwertner, Seliger, L. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Burton, Hall, Hancock, Nichols, V. Taylor.

SENATE BILL 2041 WITH HOUSE AMENDMENT

Senator Seliger called **SB 2041** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 2041** (house committee printing) as follows:

(1) On page 1, line 6, strike "Section 225.102" and substitute "Sections 225.102 and 225.103".

(2) On page 1, between lines 15 and 16, insert the following:

Sec. 225.103. CONGRESSMAN RALPH HALL HIGHWAY. (a) Notwithstanding Section 225.001(c), the portion of Interstate Highway 30 in Rockwall County is designated as the Congressman Ralph Hall Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Congressman Ralph Hall Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

The amendment was read.

Senator Seliger moved to concur in the House amendment to **SB 2041**.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti, West, Whitmire, Zaffirini.

Nays: Garcia, Watson.

SENATE BILL 239 WITH HOUSE AMENDMENT

Senator Schwertner called **SB 239** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 239** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to student loan repayment assistance for certain mental health professionals.

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

SECTION 1. Chapter 61, Education Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. REPAYMENT OF CERTAIN MENTAL HEALTH
PROFESSIONAL EDUCATION LOANS

Sec. 61.601. DEFINITION. In this subchapter, "mental health professional" means:

(1) a licensed physician who is:

(A) a graduate of an accredited psychiatric residency training program;

or

(B) certified in psychiatry by:

- (i) the American Board of Psychiatry and Neurology; or
 - (ii) the American Osteopathic Board of Neurology and Psychiatry;
- (2) a psychologist, as defined by Section 501.002, Occupations Code;
- (3) a licensed professional counselor, as defined by Section 503.002, Occupations Code;
- (4) an advanced practice registered nurse, as defined by Section 301.152, Occupations Code, who holds a nationally recognized board certification in psychiatric or mental health nursing; and
- (5) a licensed clinical social worker, as defined by Section 505.002, Occupations Code.

Sec. 61.602. REPAYMENT AUTHORIZED. If the legislature appropriates funds for purposes of this subchapter, the board shall establish a program to provide, in accordance with this subchapter and rules of the board, assistance in the repayment of student loans for mental health professionals who apply and qualify for the assistance.

Sec. 61.603. ELIGIBILITY. (a) To be eligible to receive repayment assistance under this subchapter, a mental health professional must:

- (1) apply to the board;
- (2) have completed one, two, three, four, or five consecutive years of practice in a mental health professional shortage area designated by the Department of State Health Services; and
- (3) provide mental health services in this state to:
 - (A) recipients under the medical assistance program authorized by Chapter 32, Human Resources Code;
 - (B) enrollees under the child health plan program authorized by Chapter 62, Health and Safety Code; or
 - (C) persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or persons confined in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice.

(b) In addition to satisfying the requirements under Subsection (a), for a licensed physician to be eligible to receive repayment assistance under this subchapter after the physician's third consecutive year of practice described under Subsection (a)(2), the physician must be certified in psychiatry by:

- (1) the American Board of Psychiatry and Neurology; or
- (2) the American Osteopathic Board of Neurology and Psychiatry.

Sec. 61.604. LIMITATIONS. (a) A mental health professional may receive repayment assistance under this subchapter for not more than five years.

(b) Not more than 10 percent of the number of repayment assistance grants paid under this subchapter each year may be awarded to mental health professionals providing mental health services described by Section 61.603(a)(3)(C).

(c) Not more than 30 percent of the number of repayment assistance grants paid under this subchapter each year may be awarded to mental health professionals in any one of the professions listed in Section 61.601.

Sec. 61.605. ELIGIBLE LOANS. (a) The board may provide repayment assistance under this subchapter for the repayment of any student loan for education at an institution of higher education, a private or independent institution of higher education, or a public or private out-of-state institution of higher education accredited by a recognized accrediting agency, including loans for undergraduate education, received by an eligible person through any lender.

(b) The board may not provide repayment assistance for a student loan that is in default at the time of the person's application.

(c) In each state fiscal biennium, the board shall attempt to allocate all funds appropriated to the board for the purpose of providing loan repayment assistance under this subchapter.

Sec. 61.606. REPAYMENT. (a) The board shall deliver any repayment under this subchapter in a lump sum payable:

(1) to both the lender or other holder of the loan and the mental health professional; or

(2) directly to the lender or other holder of the loan on the mental health professional's behalf.

(b) A repayment under this subchapter may be applied to any amount due in connection with the loan.

Sec. 61.607. AMOUNT OF REPAYMENT ASSISTANCE. (a) A mental health professional may receive repayment assistance under this subchapter for each year the mental health professional establishes eligibility for the assistance in an amount determined by applying the following applicable percentage to the maximum total amount of assistance allowed for the mental health professional under Subsection (b):

(1) for the first year, 10 percent;

(2) for the second year, 15 percent;

(3) for the third year, 20 percent;

(4) for the fourth year, 25 percent; and

(5) for the fifth year, 30 percent.

(b) The total amount of repayment assistance received by a mental health professional under this subchapter may not exceed:

(1) \$160,000, for assistance received by a licensed physician;

(2) \$80,000, for assistance received by:

(A) a psychologist;

(B) a licensed clinical social worker, if the social worker has received a doctoral degree related to social work; or

(C) a licensed professional counselor, if the counselor has received a doctoral degree related to counseling;

(3) \$60,000, for assistance received by an advanced practice registered nurse; and

(4) \$40,000, for assistance received by a licensed clinical social worker or a licensed professional counselor who is not described by Subdivision (2).

(c) The total amount of repayment assistance provided under this subchapter may not exceed the sum of:

(1) the total amount of gifts and grants accepted by the board for the repayment assistance;

- (2) legislative appropriations for the repayment assistance; and
- (3) other funds available to the board for the repayment assistance.

(d) The board may adjust in an equitable manner the distribution amounts that mental health professionals would otherwise receive under Subsection (a) for a year as necessary to comply with Subsection (c).

Sec. 61.608. RULES. (a) The board shall adopt rules necessary to administer this subchapter.

(b) The board shall distribute to each institution of higher education or private or independent institution of higher education and to any appropriate state agency and professional association copies of the rules adopted under this section and other pertinent information relating to this subchapter.

Sec. 61.609. SOLICITATION AND ACCEPTANCE OF FUNDS. The board may solicit and accept gifts and grants from any public or private source for the purposes of this subchapter.

SECTION 2. The Texas Higher Education Coordinating Board shall adopt the rules for repayment assistance under Subchapter K, Chapter 61, Education Code, as added by this Act, not later than December 1, 2015.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator Schwertner moved to concur in the House amendment to **SB 239**.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Bettencourt, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hinojosa, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, L. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Birdwell, Burton, Hall, Hancock, Huffines, V. Taylor.

SENATE BILL 1168 WITH HOUSE AMENDMENTS

Senator West called **SB 1168** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 1168** (house committee printing) as follows:

(1) On page 5, strike lines 1-12 and substitute the following:

SECTION 8. Section 209.0041, Property Code, is amended by amending Subsection (h) and adding Subsections (h-1) and (h-2) to read as follows:

(h) Except as provided by Subsection (h-1) or (h-2) [~~this subsection~~], a declaration may be amended only by a vote of 67 percent of the total votes allocated to property owners entitled to vote on the amendment of the declaration [~~in the property owners' association~~], in addition to any governmental approval required by law.

(h-1) If the declaration contains a lower percentage than prescribed by Subsection (h), the percentage in the declaration controls.

(h-2) If the declaration is silent as to voting rights for an amendment, the declaration may be amended by a vote of owners owning 67 percent of the lots subject to the declaration.

(2) On page 17, line 23, between "fine or suspension" and "[unless", insert "if the violation is of a curable nature and does not pose a threat to public health or safety".

Floor Amendment No. 3

Amend **SB 1168** (house committee printing) as follows:

(1) Strike page 1, line 4, through page 2, line 4.

(2) On page 3, strike lines 23-25, and substitute the following:

(14) all fees payable to the association or an agent of the association that are associated with the transfer of ownership, including a description of each fee, to whom the fee is paid, and the amount of the fee.

(3) Renumber SECTIONS of the bill appropriately.

Floor Amendment No. 4

Amend **SB 1168** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Title 11, Property Code, is amended by adding Chapter 213 to read as follows:

CHAPTER 213. MODIFICATION OR TERMINATION OF RESTRICTIONS IN CERTAIN REAL ESTATE DEVELOPMENTS BY PROPERTY OWNERS' ASSOCIATION OR PROPERTY OWNER PETITION

Sec. 213.001. DEFINITIONS. In this chapter:

(1) "Amenity property" means real property the use of which is restricted by a dedicatory instrument to use as a golf course or country club.

(2) "Council of owners" has the meaning assigned by Section 81.002 as it relates to an existing condominium in a development.

(3) "Dedicatory instrument" means a governing instrument that:
(A) restricts amenity property to use as amenity property;
(B) designates real property in the development, other than amenity property, as a beneficiary of a restriction described by Paragraph (A); and
(C) addresses the establishment, maintenance, and operation of amenity property.

(4) "Development" means:
(A) amenity property; and
(B) all real property designated as beneficiary property in the dedicatory instrument.

(5) "Owner" means a person, or the person's personal representative, who holds record title to:

(A) a lot or parcel of real property in a development; or
(B) a unit or apartment of a condominium in the development.

(6) "Petition circulator" means a person authorized to circulate a petition under Section 213.005.

(7) "Property owners' association" means an incorporated or unincorporated association that:

(A) is designated as the representative of the owners of lots or parcels of real property in a development;

(B) has a membership primarily consisting of those owners; and

(C) manages or regulates all or part of the development for the benefit of those owners.

(8) "Restrictions" means one or more restrictive covenants contained or incorporated by reference in a properly recorded map, plat, replat, declaration, or other instrument filed in the real property records or map or plat records. The term includes any amendment or extension of the restrictions.

(9) "Restrictive covenant" means any covenant, condition, or restriction contained in a dedicatory instrument, whether mandatory, prohibitive, permissive, or administrative.

(10) "Unit owners' association" means an association of unit owners organized under Section 82.101 for a condominium in a development.

Sec. 213.002. FINDINGS AND PURPOSE. (a) The legislature finds that:

(1) a restriction on the use of an amenity property may create uncertainty if the owners of an amenity property are reluctant or unable to properly maintain or operate the amenity property;

(2) such uncertainty may discourage investment and negatively impact property values in the development;

(3) investors may be reluctant to or will not invest funds to revitalize an amenity property burdened with a restriction on its use;

(4) financial institutions may be reluctant to or will not provide financing to revitalize an amenity property burdened with a restriction on its use; and

(5) establishing a procedural option to allow for the modification or termination of the restriction would alleviate the uncertainty and encourage revitalization of the amenity property.

(b) The purpose of this chapter is to provide a procedural option for the modification or termination of a restriction on the use of an amenity property.

Sec. 213.003. MODIFICATION OR TERMINATION BY PETITION. (a) Except as provided by Subsection (b), a restriction on the use of an amenity property may be modified or terminated by petition in accordance with this chapter.

(b) This chapter does not apply if:

(1) a dedicatory instrument includes a procedure to modify or terminate a restriction on the use of an amenity property on approval of the owners of less than 75 percent of, as applicable, the lots or parcels of land and units or apartments of condominiums in the development; or

(2) a restriction on the use of an amenity property may be modified or terminated under the procedures of Chapter 81, 82, 201, or 209.

Sec. 213.004. PREREQUISITES FOR CIRCULATION. A petition may not be circulated under this chapter unless:

(1) for a continuous period of at least 36 months, the amenity property has not been in operation; and

(2) if zoning regulations apply to the amenity property, the owner of the amenity property has received all required zoning approvals for any proposed redevelopment of the amenity property.

Sec. 213.005. PETITION CIRCULATOR. A petition authorized by Section 213.003 may be circulated by:

(1) an owner;

(2) a property owners' association that owns and manages the amenity property; or

(3) a unit owners' association or council of owners that owns and manages the amenity property.

Sec. 213.006. CONTENTS OF PETITION. (a) The petition must include all relevant information about the proposed modification or termination, including:

(1) the name of the development, if any;

(2) the name of the amenity property, if any;

(3) the recording information of the restriction to be modified or terminated;

(4) the text of the restriction subject to modification or termination;

(5) the text of the restriction as modified or terminated; and

(6) a comparison of the original language of the restriction and the restriction as modified or terminated, showing any insertion and deletion of language or punctuation.

(b) The petition must state:

(1) reasonable times and dates the petition circulator will be available at a location in the development to receive a signed statement required by Section 213.008;

(2) a mailing address, e-mail address, and facsimile number to which a signed statement may be delivered; and

(3) the date by which a signed statement must be received to be counted.

Sec. 213.007. CIRCULATION PROCEDURE. (a) A petition circulator shall deliver a copy of the petition to:

(1) all owners of:

(A) each lot or parcel of real property in the development; and

(B) each unit or apartment of each condominium, if any, in the development; and

(2) each property owners' association, unit owners' association, and council of owners in the development.

(b) The petition circulator may deliver a copy of the petition in any reasonable manner, including:

(1) by regular mail or certified mail, return receipt requested, to the last known address of the owners or entities described by Subsections (a)(1) and (2);

(2) personal delivery to the owners or entities described by Subsections (a)(1) and (2); or

(3) at a regular meeting of a property owners' association, unit owners' association, or council of owners.

(c) If the petition circulator acts in good faith in determining ownership and delivering copies of the petition as required by this section, an owner's lack of receipt of a copy of the petition does not affect the application of a modification or termination of a restriction under this chapter to the amenity property.

Sec. 213.008. VOTE ON PROPOSAL. (a) The modification or termination of the restriction is adopted if the owners of at least 75 percent of the total number, as applicable, of the lots or parcels of land and the units or apartments of condominiums in the development, including the owner of the amenity property, vote in favor of the modification or termination of the restriction.

(b) An owner may cast a vote only by delivering to the petition circulator in accordance with Section 213.009 a signed statement that includes:

(1) the owner's name, the legal description or street address of the owner's property, and the owner's mailing address;

(2) a statement that the owner holds record title to the property;

(3) if more than one person owns an interest in the property, the name and mailing address of each co-owner; and

(4) a statement indicating whether the owner is in favor of or against the modification or termination proposed by the petition.

(c) An owner may vote only in favor of or against the modification or termination as proposed in the petition.

(d) If more than one person owns an interest in a lot or parcel of land or a unit or apartment of a condominium, the owners may cast only one vote for that lot, parcel, unit, or apartment. Except as otherwise provided by this subsection, the vote of multiple owners in favor of or against the modification or termination may be reflected by the signatures of a majority of the co-owners who return a signed statement. The vote of owners who are married may be reflected by the signature of only one of those owners.

(e) A person whose only property interest in a lot or parcel of land or unit or apartment of a condominium is that of a contract purchaser, lienholder, or mineral interest holder may not cast a vote for that property under this chapter.

(f) A vote may be counted only if the vote is received before the deadline stated in the petition as required by Section 213.006(b).

(g) The signed statement of an owner conclusively establishes that:

(1) the petition was received by the owner in accordance with Section 213.007; and

(2) the statement accurately reflects the vote of the owner.

Sec. 213.009. DELIVERY OF SIGNED STATEMENT. (a) The petition circulator must accept a signed statement described by Section 213.008 that is delivered:

(1) in person under Section 213.006(b) or otherwise;

(2) by first class mail to an address stated in the petition;

(3) by e-mail to an address stated in the petition; or

(4) by facsimile to a facsimile number stated in the petition.

(b) This section supersedes any contrary provision in a dedicatory instrument.

Sec. 213.010. CERTIFICATION OF RESULTS BY RECORDED AFFIDAVIT.

(a) The petition circulator shall certify the result of the votes by filing an affidavit with the county clerk of the county in which the restriction modified or terminated is recorded.

(b) The affidavit required by Subsection (a) must state:

(1) the name of the development, if any;

(2) the name of the amenity property, if any;

(3) the recording information of the restriction that was modified or terminated;

(4) the text of the restriction before modification or termination;

(5) the text of the restriction as modified or terminated;

(6) the number of votes in favor of and against the proposed modification or termination;

(7) the name and address of the petition circulator; and

(8) the name, address, and telephone number of the person maintaining the documents in accordance with Section 213.013.

(c) The petition circulator must affirm in the affidavit that the petition was delivered in accordance with Section 213.007.

Sec. 213.011. NOTICE. (a) The recording of the affidavit required by Section 213.010 constitutes notice that the restriction is modified or terminated.

(b) Notwithstanding Subsection (a), the petition circulator must deliver to each person who resides within 200 feet of the boundary of the amenity property a copy of the affidavit. The affidavit may be delivered by regular mail, by certified mail, return receipt requested, or by personal delivery.

Sec. 213.012. EFFECTIVE DATE OF MODIFICATION OR TERMINATION.

The modification or termination of the restriction takes effect on the later of:

(1) the date the affidavit required by Section 213.010 is filed with the county clerk; or

(2) the date, if any, specified as the effective date in the petition.

Sec. 213.013. DOCUMENTATION AVAILABLE. At least one year after the date the affidavit is filed with the county clerk, the petition circulator shall make available for inspection and copying the original petition, the signed statements described by Section 213.008, and the affidavit required by Section 213.010.

Sec. 213.014. EXPIRATION. This chapter expires September 1, 2021.

SECTION _____. Chapter 213, Property Code, as added by this Act, does not apply to a petition circulated before the effective date of this Act.

Floor Amendment No. 5

Amend **SB 1168** (house committee printing) on page 17, line 14, by striking "verified [~~certified~~]" and substituting "certified".

Floor Amendment No. 6

Amend **SB 1168** (house committee printing) as follows:

(1) On page 11, line 5, strike "and".

(2) On page 13, line 7, between "cast" and the underscored period, insert the following:
; and

(3) in any election for the board, each candidate may name one person to observe the counting of the ballots, provided that this does not entitle any observer to see the name of the person who case any ballot, and that any disruptive observer may be removed

Floor Amendment No. 7

Amend **SB 1168** (house committee printing) by adding the following appropriately SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 209.0059, Property Code, is amended by adding Subsection (c) to read as follows:

(c) A person may not vote in a property owners' association election unless the person is subject to a dedicatory instrument governing the association through which the association exercises its authority.

Floor Amendment No. 1 on Third Reading

Amend **SB 1168** on third reading by inserting the following appropriately numbered SECTION and renumbering SECTIONS of the bill appropriately:

SECTION _____. Chapter 209, Property Code, is amended by adding Section 209.0042 to read as follows:

Sec. 209.0042. METHODS OF PROVIDING NOTICES TO OWNERS. (a) Subject to this section, a property owners' association may adopt a method that may be used by the association to provide a notice from the association to a property owner.

(b) A property owners' association may use an alternative method of providing notice adopted under this section to provide a notice for which another method is prescribed by law only if the property owner to whom the notice is provided has affirmatively opted to allow the association to use the alternative method of providing notice to provide to the owner notices for which another method is prescribed by law.

(c) A property owners' association may not require an owner to allow the association to use an alternative method of providing notice adopted under this section to provide to the owner any notice for which another method of providing notice is prescribed by law.

Floor Amendment No. 2 on Third Reading

Amend **SB 1168** by striking the new Subsection (c) of Section 209.0059, Property Code, as added by second reading Amendment No. 7 by D. Miller and substituting the following:

(c) In a residential development with ten or fewer lots for which the declaration was recorded before January 1, 2015, a person may not vote in a property owners' association election unless the person is subject to a dedicatory instrument governing the association through which the association exercises its authority.

The amendments were read.

Senator West moved to concur in the House amendments to **SB 1168**.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Bettencourt, Birdwell, Burton, Ellis, Eltife, Estes, Fraser, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Schwertner, Seliger, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Campbell, Creighton, Rodríguez, L. Taylor, V. Taylor.

SENATE BILL 1455 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 1455** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1455** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to certain required reports, plans, and other documents prepared by state agencies and institutions of higher education.

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

SECTION 1. Section 32.034(e), Education Code, is amended to read as follows:

(e) The board of directors shall:

(1) employ a director for the center; and

(2) establish priorities for the center's activities[; and

~~[(3) report annually on the operation, projects, and fiscal affairs of the center to the State Board of Education and the membership of the center].~~

SECTION 2. Section 39.263(c), Education Code, is amended to read as follows:

(c) The commissioner shall select annually schools and districts qualified to receive successful school awards for their performance ~~[and report the selections to the governor and the State Board of Education].~~

SECTION 3. Section 51.752(h), Education Code, is amended to read as follows:

(h) If the legislature fails to appropriate funds for the operation of the Educational Economic Policy Center, the Legislative Budget Board shall perform the duties of the committee under this subchapter. ~~[The board shall make the annual reports required by Subsection (g) to the presiding officers of the standing committees of the senate and the house of representatives with primary jurisdiction over the public school system.]~~

SECTION 4. Section 61.0762(a), Education Code, is amended to read as follows:

(a) To ~~[implement the college readiness and success strategic action plan adopted under Section 61.0761 and to]~~ enhance the success of students at institutions of higher education, the board by rule shall:

(1) develop higher education bridge programs in the subject areas of mathematics, science, social science, or English language arts to increase student success by reducing the need for developmental education;

(2) develop incentive programs for institutions of higher education that implement research-based, innovative developmental education initiatives;

(3) develop a pilot program to award grants to institutions of higher education for intensive programs designed to address the needs of students at risk of dropping out of college;

(4) develop professional development programs for faculty of institutions of higher education on college readiness standards and the implications of such standards on instruction; and

(5) develop other programs as determined by the board that support the participation and success goals in "Closing the Gaps," the state's master plan for higher education.

SECTION 5. Section 88.526(a), Education Code, is amended to read as follows:

(a) The director shall prepare an annual report on equine research funded under this subchapter. The director shall distribute the report to ~~[the Texas Racing Commission and]~~ members of the Texas horse racing industry. The director shall make copies of the report available to interested parties.

SECTION 6. Section 72.084, Government Code, is amended to read as follows:

Sec. 72.084. COURT OF APPEALS. Each month, a ~~[A]~~ court of appeals shall ~~[annually]~~ report to the office:

(1) the number of cases filed with the court during the reporting month ~~[year]~~;

(2) the number of cases disposed of by the court during the reporting month ~~[year]~~;

(3) for active cases on the docket of the court on the reporting date, the average number of days from the date of submission of the case to the court until the reporting date; and

(4) for each case disposed of during the reporting month ~~[year]~~ by the court, the number of days from the date of submission of the case to the court until the date of disposition of the case by the court.

SECTION 7. Section 531.02111(e), Government Code, is amended to read as follows:

(e) Not later than December 1 of each even-numbered year, the commission shall submit the report to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officer of each standing committee of the senate and house of representatives having jurisdiction over health and human services issues, and the state auditor~~[-and the comptroller]~~.

SECTION 8. Section 531.02112(c), Government Code, is amended to read as follows:

(c) The commission shall submit the report to the governor, legislature, and state auditor~~[-and comptroller]~~.

SECTION 9. Section 531.055(a), Government Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) Each health and human services agency, the Texas Correctional Office on Offenders with Medical or Mental Impairments, the Texas Department of Criminal Justice, the Texas Department of Housing and Community Affairs, ~~[the Texas Education Agency,]~~ the Texas Workforce Commission, and the Texas Juvenile Justice

Department shall enter into a joint memorandum of understanding to promote a system of local-level interagency staffing groups to coordinate services for persons needing multiagency services.

SECTION 10. Section 614.072(f), Government Code, is amended to read as follows:

(f) The director shall prepare an annual written report on the activity, status, and effectiveness of the fund and shall submit the report to the lieutenant governor and and the speaker of the house of representatives ~~and the comptroller~~ before September 1 of each year.

SECTION 11. Section 772.009, Government Code, is amended by amending Subsection (g) and adding Subsection (g-1) to read as follows:

(g) Each state agency other than an institution of higher education shall file an annual report with the grant writing team concerning the agency's efforts to acquire ~~in acquiring~~ available discretionary federal funds during the preceding state fiscal year. The grant writing team shall establish guidelines for information included in the annual report required by this subsection ~~section~~.

(g-1) The grant writing team shall:

(1) evaluate the effectiveness of each agency in acquiring discretionary federal funds during the preceding state fiscal year;

(2) ~~and shall~~ report the findings of the evaluation to the governor and the Legislative Budget Board; and

(3) publish the report on the office of the governor's Internet website.

SECTION 12. Section 2054.102, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a) The Legislative Budget Board may specify procedures for ~~the~~ submission, review, approval, and disapproval of biennial operating plans and amendments, including procedures for review or reconsideration of the Legislative Budget Board's disapproval of a biennial operating plan or biennial operating plan amendment. The Legislative Budget Board shall review and approve or disapprove the biennial operating plan for a state fiscal biennium on or before or biennial operating plan amendment not later than the 60th day after the last day of the regular legislative session held during the calendar year during which that state fiscal biennium begins ~~date the plan or amendment to the plan is submitted~~.

(a-1) If an amendment to a biennial operating plan is submitted to the Legislative Budget Board on a date that falls during the period beginning September 1 of an even-numbered year and ending the last day of the following regular legislative session, the Legislative Budget Board shall review and approve or disapprove the amendment on or before the 60th day after the last day of that regular legislative session.

(a-2) If an ~~The plan or~~ amendment to a biennial operating ~~the~~ plan is submitted to the Legislative Budget Board on a date that falls outside of the period described by Subsection (a-1), the Legislative Budget Board shall review and approve or disapprove the amendment on or before the 60th day after the date the amendment is submitted.

(a-3) The Legislative Budget Board may extend the deadline for the Legislative Budget Board's action on an amendment to a biennial operating plan by the number of days the review of the amendment is delayed while board staff waits for the submission of additional information regarding the amendment requested by the staff as necessary for the completion of the review.

(a-4) An amendment to a biennial operating plan is considered to be approved [on the 61st day after the date the plan or amendment is submitted] if the Legislative Budget Board does not disapprove the [plan or] amendment before the later of:

(1) the day following the last day of the period for approval or disapproval of the amendment as provided by Subsection (a-1) or (a-2), as applicable; or

(2) the day following the last day of the period for approval or disapproval of the amendment as extended under Subsection (a-3) [that date].

SECTION 13. Section 2056.002(d), Government Code, is amended to read as follows:

(d) A state agency shall send two copies of each plan to both the Legislative Reference Library and the state publications clearinghouse of the Texas State Library and one copy each to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the Legislative Budget Board;
- (5) the Sunset Advisory Commission;
- (6) the state auditor; and
- (7) ~~the comptroller; and~~
- ~~(8)~~ the Department of Information Resources.

SECTION 14. Section 2056.009(b), Government Code, is amended to read as follows:

(b) The state plan shall be sent to the governor, lieutenant governor, ~~comptroller,~~ and each member of the legislature not later than the seventh working day of each regular session of the legislature.

SECTION 15. Section 2165.055, Government Code, as amended by Chapters 1153 (S.B. 211) and 1312 (S.B. 59), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to read as follows:

Sec. 2165.055. REPORT ABOUT IMPROVEMENTS AND REPAIRS. Not later than December 1 of each even-numbered year, the commission ~~[on July 1 of each even-numbered year]~~ shall ~~[electronically submit a]~~ report to the governor ~~[, lieutenant governor, speaker of the house of representatives, comptroller, and Legislative Budget Board on]~~:

(1) all improvements and repairs that have been made, with an itemized account of receipts and expenditures; and

(2) the condition of all property under its control, with an estimate of needed improvements and repairs.

SECTION 16. Section 2165.1061(h), Government Code, is amended to read as follows:

(h) In addition to the requirements of Subsection (f), ~~[not later than July 1 of each even-numbered year,]~~ the commission shall complete a study on the amount of each state agency's administrative office space in Travis County to identify locations that exceed the space limitations prescribed by Section 2165.104(c) and include the findings of the study in the commission's master facilities plan required under Section 2166.102. The findings shall include:

(1) the location of office space that exceeds the space limitations prescribed by Section 2165.104(c);

(2) the amount of excess space;

(3) the cost of the excess space;

(4) the expiration dates of any leases covering the excess space;

(5) the amount of exempt and nonexempt space under Section 2165.104(c);

and

(6) recommendations for the most cost-effective method by which a state agency could comply with the requirements of Section 2165.104(c), including recommendations that identify the amount and cost of office space that could be reduced or eliminated, state the moving costs and expenses associated with reductions in space, and state the earliest date by which the space reductions could be feasibly achieved.

SECTION 17. Section 2166.101(d), Government Code, as amended by Chapters 1153 (S.B. 211) and 1312 (S.B. 59), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to read as follows:

(d) The commission shall summarize its findings on the status of state-owned buildings and current information on construction costs and include the summary in the commission's master facilities plan required under Section 2166.102 ~~[in an electronically submitted report to the governor, lieutenant governor, speaker of the house of representatives, comptroller, and Legislative Budget Board not later than July 1 of each even-numbered year].~~

SECTION 18. Section 2166.102(b), Government Code, is amended to read as follows:

(b) The commission shall maintain a six-year capital planning cycle and shall electronically submit a master facilities plan with the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, and comptroller not later than December 1 ~~[before July 1]~~ of each even-numbered year.

SECTION 19. Section 2166.103(b), Government Code, as amended by Chapters 1153 (S.B. 211) and 1312 (S.B. 59), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to read as follows:

(b) The ~~[Not later than July 1 of each even-numbered year,]~~ commission shall identify ~~[electronically submit to the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, and the Legislative Budget Board a report identifying]~~ counties in which more than 50,000 square feet of usable office space is needed and make recommendations for meeting that need. The commission may recommend leasing or purchasing and renovating one or more existing buildings or constructing one or more buildings. The commission shall include the commission's findings and recommendations in the commission's master facilities plan required under Section 2166.102.

SECTION 20. Section 2205.041, Government Code, is amended to read as follows:

Sec. 2205.041. AIRCRAFT USE FORM. (a) The Texas Department of Transportation [~~Legislative Budget Board, in cooperation with the board,~~] shall prescribe:

(1) an annual aircraft use form for gathering information about the use of state-operated aircraft, including the extent to which and the methods by which the goal provided by Section 2205.031(b) is being met; and

(2) procedures for each state agency that operates an aircraft for sending the form to the department [~~board and the Legislative Budget Board~~].

(b) The aircraft use form must request the following information about each aircraft a state agency operates:

(1) a description of the aircraft;

(2) the date purchased or leased and the purchase price or lease cost;

(3) the number of annual hours flown;

(4) the annual operating costs;

(5) the number of flights and the destinations;

(6) the travel logs prepared under Section 2205.039; and

(7) any other information the Texas Department of Transportation [~~Legislative Budget Board~~] requires to document the proper or cost-efficient use of the aircraft.

SECTION 21. The following provisions are repealed:

(1) Section 51.752(g), Education Code;

(2) Section 61.0761, Education Code;

(3) Section 109.75(c), Education Code;

(4) Section 761.005, Government Code;

(5) Section 2166.409, Government Code;

(6) Section 372.004, Health and Safety Code; and

(7) Section 162.501(c), Tax Code.

SECTION 22. This Act takes effect September 1, 2015.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1455**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1394 WITH HOUSE AMENDMENT

Senator Hancock called **SB 1394** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1394** (senate engrossed version) by striking lines 14 through 18 and substituting the following:

(o) If the chief appraiser uses audiovisual equipment at a hearing on a protest, the appraisal office shall provide audiovisual equipment of the same general type, kind, and character for use during the hearing by the property owner or the property owner's agent.

The amendment was read.

Senator Hancock moved to concur in the House amendment to **SB 1394**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1743 WITH HOUSE AMENDMENT

Senator Hinojosa called **SB 1743** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1743** (house committee report) as follows:

(1) On page 8, line 22, strike "or 11.073".

(2) On page 8, line 25, strike "or 11.073".

(3) On page 9, strike lines 3-4, and substitute the following:

(4) is conducted under Article 11.073, Code of Criminal Procedure, or is collateral to the preparation of an application under Article 11.073, Code of Criminal Procedure, if the case was referred in writing to the office by the Texas Forensic Science Commission under Section 4(h), Article 38.01, Code of Criminal Procedure.

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

SECTION _____. Section 2, Article 38.01, Code of Criminal Procedure, is amended by adding Subdivision (5) to read as follows:

(5) "Office of capital and forensic writs" means the office of capital and forensic writs established under Subchapter B, Chapter 78, Government Code.

SECTION _____. Section 4, Article 38.01, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h) The commission may review and refer cases that are the subject of an investigation under Subsection (a)(3) or (a-1) to the office of capital and forensic writs in accordance with Section 78.054(b), Government Code.

The amendment was read.

Senator Hinojosa moved to concur in the House amendment to **SB 1743**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1461 WITH HOUSE AMENDMENT

Senator West called **SB 1461** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1461** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the appointment and terms of the board of hospital managers of the Dallas County Hospital District.

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

SECTION 1. Subchapter B, Chapter 281, Health and Safety Code, is amended by adding Section 281.0211 to read as follows:

Sec. 281.0211. APPOINTMENT OF DALLAS COUNTY HOSPITAL DISTRICT BOARD; MEMBERS' TERMS. (a) The Dallas County Hospital District is governed by a board composed of 11 members, appointed as follows:

(1) the Dallas County Commissioners Court shall appoint one member;

(2) each commissioner on the Dallas County Commissioners Court shall appoint two members; and

(3) the county judge of Dallas County shall appoint two members.

(b) Board members appointed under this section serve staggered three-year terms, with as near as possible to one-third of the members' terms expiring each year.

(c) On or after September 1, 2022, the Dallas County Commissioners Court shall appoint members to the board in accordance with Sections 281.021(a) and 281.022(a).

(d) Subsection (c) does not affect the entitlement of a member of the board of the Dallas County Hospital District appointed to the board under this section before September 1, 2022, to continue to carry out the member's functions for the remainder of the member's term.

(e) On the expiration of the terms of the board members described by Subsection (d), the Dallas County Commissioners Court shall take appropriate action to ensure that, as soon as possible, the board of the Dallas County Hospital District complies with the requirements of Sections 281.021(a) and 281.022(a).

SECTION 2. (a) The members of the board of hospital managers of the Dallas County Hospital District serving on the effective date of this Act may draw lots or use another method to determine the members, the number of whom must be as near as possible to one-third of the total number of members, who shall serve terms that expire in 2018, the members, the number of whom must be as near as possible to one-third of the total number of members, who shall serve terms that expire in 2017, and the members, the number of whom must be as near as possible to one-third of the total number of members, who shall serve terms that expire in 2016. The members of the board appointed to succeed the members serving on the effective date of this Act shall serve three-year terms.

(b) At the time the terms of the board of hospital managers of the Dallas County Hospital District are determined under Subsection (a) of this section, the Dallas County Commissioners Court shall establish the specific date on which the terms of members of the board of hospital managers shall expire each year.

(c) The additional members of the board of hospital managers of the Dallas County Hospital District required by Section 281.0211, Health and Safety Code, as added by this Act, must be appointed not later than January 1, 2016.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 1461**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1560 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 1560** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1560** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of chemical dependency treatment facilities and certain other facilities.

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

SECTION 1. Section 164.009(e), Health and Safety Code, is amended to read as follows:

(e) A chemical dependency facility may not represent or recommend that a prospective patient should be admitted to a facility for treatment unless and until:

(1) the prospective patient has been evaluated, in person, by a mental health professional; and

(2) a ~~the~~ mental health professional determines that the patient meets the facility's admission standards.

SECTION 2. Section 462.009, Health and Safety Code, is amended by adding Subsection (h) to read as follows:

(h) This section does not apply to a treatment facility licensed by the department under Chapter 464.

SECTION 3. Subchapter A, Chapter 462, Health and Safety Code, is amended by adding Sections 462.010, 462.011, 462.012, 462.013, and 462.014 to read as follows:

Sec. 462.010. CONSENT TO TREATMENT AT CERTAIN FACILITIES. (a) A treatment facility licensed by the department under Chapter 464 may not provide treatment to a patient without the patient's legally adequate consent.

(b) The executive commissioner by rule shall prescribe standards for obtaining a patient's legally adequate consent under this section, including rules prescribing reasonable efforts to obtain a patient's consent and requiring documentation for those efforts.

Sec. 462.011. CONSENT TO MEDICATION. Consent to the administration of prescription medication given by a patient receiving treatment in a treatment facility licensed by the department under Chapter 464 or by a person authorized by law to consent on behalf of the patient is valid only if:

(1) the consent is given voluntarily and without coercive or undue influence;

(2) the patient and, if appropriate, the patient's representative authorized by law to consent on behalf of the patient are informed in writing that consent may be revoked; and

(3) the consent is evidenced in the patient's clinical record by a signed form prescribed by the treatment facility or by a statement of the treating physician or a person designated by the physician that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained.

Sec. 462.012. RIGHT TO REFUSE MEDICATION. (a) Each patient receiving treatment in a treatment facility licensed by the department under Chapter 464 has the right to refuse unnecessary or excessive medication.

(b) Medication may not be used by the treatment facility:

(1) as punishment; or

(2) for the convenience of the staff.

Sec. 462.013. MEDICATION INFORMATION. (a) The executive commissioner by rule shall require the treating physician of a patient admitted to a treatment facility licensed by the department under Chapter 464 or a person designated by the physician to provide to the patient in the patient's primary language, if possible, information relating to prescription medications ordered by the physician.

(b) At a minimum, the required information must:

(1) identify the major types of prescription medications; and

(2) specify for each major type:

(A) the conditions the medications are commonly used to treat;

(B) the beneficial effects on those conditions generally expected from the medications;

(C) side effects and risks associated with the medications;

(D) commonly used examples of medications of the major type; and

(E) sources of detailed information concerning a particular medication.

(c) If the treating physician designates another person to provide the information under Subsection (a), then, not later than two working days after that person provides the information, excluding weekends and legal holidays, the physician shall meet with the patient and, if appropriate, the patient's representative who provided consent for the administration of the medications under Section 462.011, to review the information and answer any questions.

(d) The treating physician or the person designated by the physician shall also provide the information to the patient's family on request, but only to the extent not otherwise prohibited by state or federal confidentiality laws.

Sec. 462.014. LIST OF MEDICATIONS. (a) On the request of a patient, a person designated by the patient, or the patient's legal guardian or managing conservator, if any, the facility administrator of a treatment facility licensed by the department under Chapter 464 shall provide to the patient, the person designated by the patient, and the patient's legal guardian or managing conservator, a list of the medications prescribed for administration to the patient while the patient is in the treatment facility. The list must include for each medication:

(1) the name of the medication;

(2) the dosage and schedule prescribed for the administration of the medication; and

(3) the name of the physician who prescribed the medication.

(b) The list must be provided before the expiration of four hours after the facility administrator receives a written request for the list from the patient, a person designated by the patient, or the patient's legal guardian or managing conservator, if any. If sufficient time to prepare the list before discharge is not available, the list may be mailed before the expiration of 24 hours after discharge to the patient, the person designated by the patient, and the patient's legal guardian or managing conservator.

(c) A patient or the patient's legal guardian or managing conservator, if any, may waive the right of any person to receive the list of medications while the patient is participating in a research project if release of the list would jeopardize the results of the project.

SECTION 4. Section 462.025(h)(4), Health and Safety Code, is amended to read as follows:

(4) "Screening" means the process a treatment facility uses to determine whether a prospective patient presents sufficient signs, symptoms, or behaviors to warrant a more in-depth assessment by a qualified professional after the patient is admitted.

SECTION 5. Section 462.025(h)(2), Health and Safety Code, is repealed.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1560**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 386 WITH HOUSE AMENDMENT

Senator V. Taylor called **SB 386** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 386** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to school marshals for public junior colleges, notifying a parent or guardian whether an employee of a public junior college is appointed school marshal, and the confidentiality of information submitted to or collected by the Texas Commission on Law Enforcement in connection with a certification for appointment as school marshal.

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

SECTION 1. Articles 2.127(a) and (d), Code of Criminal Procedure, are amended to read as follows:

(a) Except as provided by Subsection (b), a school marshal may make arrests and exercise all authority given peace officers under this code, subject to written regulations adopted by the board of trustees of a school district or the governing body of an open-enrollment charter school under Section 37.0811, Education Code, or the governing board of a public junior college under Section 51.220, Education Code, and only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.

(d) A person may not serve as a school marshal unless the person is:

(1) licensed under Section 1701.260, Occupations Code; and

(2) appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school under Section 37.0811, Education Code, or the governing board of a public junior college under Section 51.220, Education Code.

SECTION 2. Subchapter E, Chapter 51, Education Code, is amended by adding Section 51.220 to read as follows:

Sec. 51.220. PUBLIC JUNIOR COLLEGE SCHOOL MARSHALS. (a) In this section, "public junior college" has the meaning assigned by Section 61.003.

(b) The governing board of a public junior college may appoint one or more school marshals.

(c) The governing board of a public junior college may select for appointment as a school marshal under this section an applicant who is an employee of the public junior college and certified as eligible for appointment under Section 1701.260, Occupations Code. The governing board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under that section.

(d) A school marshal appointed by the governing board of a public junior college may carry or possess a handgun on the physical premises of a public junior college campus, but only:

(1) in the manner provided by written regulations adopted by the governing board; and

(2) at a specific public junior college campus as specified by the governing board.

(e) Any written regulations adopted for purposes of Subsection (d) must provide that a school marshal may carry a concealed handgun as described by Subsection (d), except that if the primary duty of the school marshal involves regular, direct contact

with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a public junior college campus in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.

(f) A school marshal may access a handgun under this section only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33, Penal Code.

(g) A public junior college employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2) suspension or revocation of the employee's license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code;

(3) termination of the employee's employment with the public junior college; or

(4) notice from the governing board of the public junior college that the employee's services as school marshal are no longer required.

(h) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

(i) If a parent or guardian of a student enrolled at a public junior college inquires in writing, the governing board of the public junior college shall provide the parent or guardian written notice indicating whether any employee of the public junior college is currently appointed a school marshal. The notice may not disclose information that is confidential under Subsection (h).

SECTION 3. Sections 1701.260(a), (j), and (l), Occupations Code, are amended to read as follows:

(a) The commission shall establish and maintain a training program open to any employee of a school district, ~~or~~ open-enrollment charter school, or public junior college who holds a license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code. The training may be conducted only by the commission staff or a provider approved by the commission.

(j) The commission shall submit the identifying information collected under Subsection (b) for each person licensed by the commission under this section to:

(1) the director of the Department of Public Safety;

(2) the person's employer, if the person is employed by a school district, ~~or~~ open-enrollment charter school, or public junior college;

(3) the chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a school district, ~~or~~ open-enrollment charter school, or public junior college located within a municipality;

(4) the sheriff of the county if the person is employed at a campus of a school district, ~~or~~ open-enrollment charter school, or public junior college that is not located within a municipality; and

(5) the chief administrator of any peace officer commissioned under Section 37.081 or 51.203, Education Code, if the person is employed at a school district or public junior college that has commissioned a peace officer under either ~~that~~ section.

(l) All ~~Identifying~~ information ~~[about a person]~~ collected or submitted under this section is confidential, except as provided by Subsection (j), and is not subject to disclosure under Chapter 552, Government Code.

SECTION 4. Section 1701.001(8), Occupations Code, is amended to read as follows:

(8) "School marshal" means a person employed and appointed by the board of trustees of a school district, ~~or~~ the governing body of an open-enrollment charter school, or the governing board of a public junior college under Article 2.127, Code of Criminal Procedure, and in accordance with and having the rights provided by Section 37.0811 or 51.220, Education Code.

SECTION 5. This Act takes effect September 1, 2015.

The amendment was read.

Senator V. Taylor moved to concur in the House amendment to **SB 386**.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Bettencourt, Birdwell, Burton, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Perry, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Nichols, Rodríguez.

SENATE BILL 1304 WITH HOUSE AMENDMENT

Senator Menéndez called **SB 1304** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1304** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a women veterans mental health initiative within the mental health intervention program for veterans.

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

SECTION 1. Section 1001.202, Health and Safety Code, as added by Chapter 352 (H.B. 2392), Acts of the 83rd Legislature, Regular Session, 2013, and amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1001.202. GENERAL POWERS AND DUTIES. (a) The department shall develop a mental health intervention program for veterans. The program must include:

- (1) peer-to-peer counseling;
- (2) access to licensed mental health professionals for volunteer coordinators and peers;
- (3) training approved by the department for peers;

(4) technical assistance for volunteer coordinators and peers;
(5) grants to regional and local organizations providing services under this subchapter;

(6) recruitment, retention, and screening of community-based therapists;

(7) suicide prevention training for volunteer coordinators and peers; and

(8) veteran jail diversion services, including veterans courts.

(a-1) As part of the mental health intervention program for veterans, the department shall develop a women veterans mental health initiative.

(b) The department shall solicit and ensure that specialized training is provided to persons who are peers and who want to provide peer-to-peer counseling or other peer-to-peer services under the program.

(c) The executive commissioner may adopt rules necessary to implement this subchapter.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator Menéndez moved to concur in the House amendment to **SB 1304**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 2025 WITH HOUSE AMENDMENT

Senator Nichols called **SB 2025** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 2025** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 147; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 7907 to read as follows:

CHAPTER 7907. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 147

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7907.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Montgomery County Municipal Utility District No.

Sec. 7907.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7907.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 7907.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7907.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 7907.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 7907.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7907.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 7907.052, directors serve staggered four-year terms.

Sec. 7907.052. TEMPORARY DIRECTORS. (a) On or after September 1, 2015, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 7907.003; or

(2) September 1, 2019.

(c) If permanent directors have not been elected under Section 7907.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 7907.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7907.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7907.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 7907.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 7907.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 7907.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. (a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) Section 54.016(f), Water Code, does not apply to the district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7907.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 7907.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem 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.

Sec. 7907.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7907.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 7907.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 7907.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 7907.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 7907.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. The Montgomery County Municipal Utility District No. 147 initially includes all the territory contained in the following area:

TRACT ONE:

BEING 75.060 ACRES OF LAND IN THE ROBERT MARSH SURVEY, A-355, THE JAMES EDWARDS SURVEY, A-189, MONTGOMERY COUNTY, TEXAS, SAID 75.060 ACRES BEING OUT OF THE RODRIGUEZ FAMILY TRUST 210.3078 ACRE TRACT OF LAND DEED OF WHICH IS RECORDED UNDER COUNTY CLERK'S FILE NUMBER 2013-098325, MONTGOMERY COUNTY REAL PROPERTY RECORDS, SAID 75.060 ACRES BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING at a 5/8" iron rod set for the Northwest corner of the herein described tract, same being the Northeast corner of a 0.1653 acre tract of land described by deed recorded in Volume 1087, Page 346, Montgomery County Deed Records, said corner being N. 75° 03' 44" E., along the North line of the 210.3078 acre tract, the South line of the Conroe Venture Ltd; 410.539 acre tract, (Conroe Tract 4) deed of which is recorded under County Clerk's File Number 9149317, Montgomery County Real Property Records a distance of 746.31 feet from a 3/4" iron pipe found for the Southwest corner of the 410.3078 acre tract;

THENCE N. 75° 03' 44" E., along the above mentioned lines for a distance of 3,439.09 feet to a 5/8" iron rod found with a plastic cap stamped COC for the Northeast corner of the herein described tract, the West corner of the City of Conroe 1.820 acre tract of land deed of which is recorded under County Clerk's File Number 2012-000764, Montgomery County Real Property Records;

THENCE S. 19° 07' 00" E., along the Southwest line of the said 1.820 acre tract for a distance of 796.87 feet to a 5/8" iron rod found with a plastic cap stamped COC for the South corner of the 1.820 acre tad, in the North line of La Salle Crossing, (60' Cab. C, Sht. 1, M.C.M.R.) and being the Southeast corner of the herein described tract;

THENCE S. 71°07' 56" W., along the North line of La Salle Crossing for a distance of 25.10 feet to a 5/8" iron rod set for the beginning of a curve to the right;

THENCE in a Southwesterly direction continuing with said North line, along said curve to the right having a radius of 270.00 feet, a central angle of 14° 28' 21", for an arc length of 68.20 feet, chord bears S. 78° 00' 30" W., 68.02 feet to a 5/8" iron rod set for the end of curve;

THENCE S. 85° 32' 49" W., continuing along said North line for a distance of 49.93 feet to a 5/8" iron rod found for the beginning of a curve to the left;

THENCE in a Southwesterly direction continuing with said North line, along said curve to the left having a radius of 330.00 feet, a central angle of 18° 20' 28" for an arc length of 105.64 feet, chord bears S. 76° 09' 01" W., 105.19 feet to a 5/8" iron rod found for the end of curve;

THENCE S. 67° 01' 40" W., along the North line of La Salle Crossing for a distance of 1,311.05 feet to a 5/8" iron rod found for the beginning of a curve to the right;

THENCE in a Northwesterly direction continuing with said North line, along said curve to the right having a radius of 340.00 feet, a central angle of 46° 19' 02", an arc length of 274.85 feet, chord bears N. 89° 48' 50" W., 267.43 feet to a 5/8" iron rod set for the end of curve;

THENCE N. 66° 39' 20" W., continuing along said North line for a distance of 259.28 feet to a 5/8" iron rod set for the most Northerly corner of La Salle Crossing;

THENCE S. 23° 20' 40" W., along the most Westerly line of La Salle Crossing, passing at 60.00 feet its most Westerly corner, same being the North corner of Lot 1, Block 1, La Salle Crossing, and continuing along the Northwest line of Block 1 for a distance of 538.30 feet to a 5/8" iron rod set for corner, same being a corner of the Montgomery County M.U.D. No. 42 391.0643 acre tract of land deed of which is recorded in Volume 1142, Page 663, Montgomery County Deed Records;

THENCE S. 45° 15' 00" W., continuing along the Northwest line of Block 1 for a distance of 483.21 feet to the most Southerly corner of the herein described tract;

THENCE N. 55° 51' 51" W., crossing said 210.3078 acre tract for a distance of 722.37 feet;

THENCE N. 47° 07' 24" W., continuing across said 210.3078 acre tract for a distance of 497.42 feet

THENCE N. 14° 51' 19" W., at 311.58 feet passing the East corner of a 0.1653 acre tract and then along it's Northeast line for a distance of 431.19 feet to the POINT OF BEGINNING and containing in all 75.060 acres of land.

TRACT TWO:

BEING 55.369 ACRES OF LAND IN THE ROBERT MARSH SURVEY, A-355, THE JAMES EDWARDS SURVEY, A -189, MONTGOMERY COUNTY, TEXAS SAID 55.369 ACRES BEING OUT OF THE WESLIE R. MARKS 210.3078 ACRE TRACT OF LAND DEED OF WHICH IS RECORDED UNDER COUNTY CLERK'S FILE NUMBER 9223195, MONTGOMERY COUNTY REAL PROPERTY RECORDS, SAID 55.369 ACRES BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING at a 3/4 " iron pipe found for the most Northerly corner of the said 210.3078 acre tract, in a South line of the Conroe Venture Ltd; 410.539 acre tract of land, (Conroe Tract 4) deed of which is recorded under County Clerk's File Number 9149317, Montgomery County Real Property Records;

THENCE S. 74° 17' 38" E., along the Northeast line of the said 210.3078 acre tract, a South line of the said 410.539 acre tract, and called to be the North line of the marsh and the South line of the James Edwards Survey, A-190 for a distance of 985.33 feet to a 5/8" iron rod found for the Northeast corner of the herein described tract, the Northwest corner of the Pierre G. Mulacek and wife Suzee 6.00 acre tract of land deed of which is recorded under County Clerk's File Number 9554950, Montgomery County Real Property Records, from whence a 1/2" iron rod found for the East corner of the 210.3078 acre tract bears S. 74° 17' 38" E., 333.73 feet;

THENCE S. 17° 24' 18" W., along the West line of the said 6.00 acre tract for a distance of 548.96 feet to a 5/8" iron rod found for corner;

THENCE S. 06° 15' 16" E., continuing along said West line, passing at feet a 5/8" iron rod set for reference and continuing in all for a distance of 397.48 feet to the Lower Northeast corner of the herein described tract, in the centerline of a creek, same being the Westerly line of Willowridge Estates, Section 2, a Subdivision map of which is recorded in Cabinet D, Sheet 35B, Montgomery County Map Records, same being the Southeast line of the said 210.3078 acre tract;

THENCE in a Southerly direction with said centerline, the Westerly line of Willowridge Estates, Section 2, the Westerly line of Willowridge Estates, Section 3, (Cab. D, Sht. 36B, M.C.M.R.) as follows;

1. S. 87° 09' 06" W, 85.39 feet,
2. S. 44° 02' 00" W., 48.96 feet,
3. N. 58° 14' 36" W., 37.43 feet,
4. S. 79° 10' 59" W., 27.07 feet,
5. S. 27° 14' 07" W., 27.53 feet,
6. S. 75° 06' 44" W., 40.89 feet,

7. N. 49° 30' 04" W., 31.06 feet,
8. S. 07° 50' 39" E., 48.09 feet,
9. N. 85° 40' 09" W., 101.99 feet,
10. S. 19° 18' 28" E., 70.95 feet,
11. S. 77° 49' 55" W., 45.75 feet,
12. S. 35° 18' 07" W., 34.72 feet,
13. S. 15° 47' 47" W., 46.61 feet,
14. S. 47° 04' 22" W., 39.76 feet,
15. S. 09° 40' 20" W., 45.88 feet,
16. S. 49° 38' 16" W., 52.53 feet,
17. S. 76° 03' 48" W., 28.51 feet,
18. S. 51° 10' 04" W., 48.90 feet,
19. N. 89° 26' 07" W., 44.20 feet,
20. S. 31° 31' 38" W., 21.54 feet,
21. S. 19° 03' 26" W., 21.26 feet,
22. S. 59° 11' 37" W., 40.65 feet,
23. S. 74° 10' 41" W., 59.64 feet,
24. S. 77° 24' 10" W., 33.56 feet,
25. S. 48° 38' 25" W., 43.57 feet,
26. S. 15° 44' 03" W., 101.76 feet,
27. S. 33° 43' 48" E., 24.11 feet,
28. S. 71° 07' 40" W., 47.25 feet,
29. S. 08° 48' 43" E., 50.87 feet,
30. S. 60° 01' 49" W., 46.58 feet,
31. S. 10° 23' 18" W., 60.72 feet,
32. S. 38° 01' 09" W., 26.25 feet,
33. S. 04° 55' 35" E., 18.79 feet,
34. S. 20° 16' 28" W., 46.42 feet,
35. S. 45° 15' 26" W., 114.00 feet,
36. S. 88° 37' 11" W., 24.76 feet,
37. S. 24° 58' 26" W., 49.04 feet,
38. S. 27° 36' 23" W., 23.09 feet,
39. S. 50° 25' 58" W., 77.59 feet,

40. S. 01° 31' 17" E., 158.07 feet to the Southeast corner of the 210.3078 acre tract, the Southeast corner of the herein described tract;

THENCE S. 75° 38' 38" W., along the South line of the 210.3078 acre tract passing at 3.81 feet a 5/8" iron rod found for reference and continuing in all for a distance of 94.94 feet to a 5/8" iron rod found with a plastic cap stamped COC for the Southeast corner of the City of Conroe 1.461 acre tract of land deed of which is recorded under County Clerk's File Number 2012-000763, Montgomery County Real Property Records;

THENCE N. 45° 28' 08" W., along the East line of the said 1.461 acre tract for a distance of 46.96 feet to a 5/8" iron rod found with a plastic cap stamped COC for the beginning of a curve to the right;

THENCE in a Northwesterly direction continuing with the above mentioned East line along said curve to the right having a radius of 87.59 feet, a central angle of $51^{\circ} 05' 30''$, for an arc length of 78.11 feet, chord bears N. $03^{\circ} 53' 14''$ W., 75.54 feet to a 5/8" iron rod set for the end of curve;

THENCE N. $22^{\circ} 49' 06''$ E., continuing along said East line for a distance of 301.34 feet to a 5/8" iron rod set for the beginning of a curve to the left;

THENCE in a Northwesterly direction continuing with the said East line, along said curve to the left having a radius of 420.00 feet, a central angle of $66^{\circ} 27' 59''$, for an arc length of 487.22 feet, chord bears N. $10^{\circ} 23' 13''$ W., 460.36 feet to a 5/8" iron rod set for the end of curve;

THENCE N. $43^{\circ} 35' 28''$ W., continuing along the said East line for a distance of 443.44 feet to a 5/8" iron rod found with a plastic cap stamped COC for the beginning of a curve to the right;

THENCE in a Northwesterly direction continuing with the said East line along said curve to the right having a radius of 430.00 feet, a central angle of $24^{\circ} 32' 07''$, for an arc length of 184.14 feet, chord bears N. $31^{\circ} 27' 19''$ W., 182.73 feet to a 5/8" iron rod found with a plastic cap stamped COC for the end of curve;

THENCE N. $19^{\circ} 07' 00''$ W., continuing along said East line passing at 61.03 feet a 5/8" iron rod found with a plastic cap stamped COC for the Northeast corner of the said 1.461 acre tract, the East corner of the City of Conroe 1.820 acre tract deed of which is recorded under County Clerk's File Number 2012-000764, Montgomery County Real Property Records and continuing in all along the Easterly line of the 1.820 acre tract for a distance of 849.88 feet to a 5/8" iron rod set for its North corner, the Northwesterly corner of the herein described tract, in the North line of the said 210.3078 acre tract, a South line of the said 410.539 acre tract;

THENCE N. $75^{\circ} 03' 44''$ E., along the above mentioned lines for a distance of 1,076.06 feet to the POINT OF BEGINNING and containing in all 55.369 acres of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 7907, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7907.106 to read as follows:

Sec. 7907.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(b) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION 5. This Act takes effect September 1, 2015.

The amendment was read.

Senator Nichols moved to concur in the House amendment to **SB 2025**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 631 WITH HOUSE AMENDMENT

Senator Campbell called **SB 631** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 631** (house committee report) as follows:

(1) On page 1, line 7, strike "1.325" and substitute "1.19".

(2) Add the following appropriately numbered SECTION to the bill and renumber SECTIONS of the bill accordingly:

SECTION _____. Article 4.14(f), Code of Criminal Procedure, is amended to read as follows:

(f) A municipality with a population of 1.19 [~~4.9~~] million or more and another municipality contiguous to that municipality may 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:

(1) committed on the boundary of those municipalities or within 200 yards of that boundary; and

(2) punishable by fine only.

The amendment was read.

Senator Campbell moved to concur in the House amendment to **SB 631**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1899 WITH HOUSE AMENDMENT

Senator Campbell called **SB 1899** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1899** (house committee printing) on page 7, between lines 20-21, by adding the following appropriately lettered subsection and relettering subsequent subsections of added Section 773.0605, Health and Safety Code, and any cross references to those subsections accordingly:

() The department may not include in the report required by Subsection (d) any information, including personal information, that could be used to identify an individual involved in or the location of a complaint that has been dismissed or has not reached a final determination.

The amendment was read.

Senator Campbell moved to concur in the House amendment to **SB 1899**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 818 WITH HOUSE AMENDMENT

Senator Rodríguez called **SB 818** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 818** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the requirement that a parent appointed as a conservator of a child disclose certain information regarding family violence; creating a criminal offense.

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

SECTION 1. Section 153.076, Family Code, is amended by adding Subsections (b-1) and (c-1) and amending Subsection (d) to read as follows:

(b-1) The court shall order that each conservator of a child has the duty to inform the other conservator of the child if the conservator:

(1) establishes a residence with a person who the conservator knows is the subject of a final protective order sought by an individual other than the conservator that is in effect on the date the residence with the person is established;

(2) resides with, or allows unsupervised access to a child by, a person who is the subject of a final protective order sought by the conservator after the expiration of the 60-day period following the date the final protective order is issued; or

(3) is the subject of a final protective order issued after the date of the order establishing conservatorship.

(c-1) The notice required to be made under Subsection (b-1) must be made as soon as practicable but not later than:

(1) the 30th day after the date the conservator establishes residence with the person who is the subject of the final protective order, if the notice is required by Subsection (b-1)(1);

(2) the 90th day after the date the final protective order was issued, if the notice is required by Subsection (b-1)(2); or

(3) the 30th day after the date the final protective order was issued, if the notice is required by Subsection (b-1)(3).

(d) A conservator commits an offense if the conservator fails to provide notice in the manner required by Subsections (b) and (c), or Subsections (b-1) and (c-1), as applicable. An offense under this subsection is a Class C misdemeanor.

SECTION 2. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act to Section 153.076, Family Code, apply only to a court order rendered on or after the effective date of this Act. A court order rendered before that date is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

(b) A person may bring a suit to modify a court order rendered before September 1, 2015, under Section 153.076, Family Code, as amended by this Act.

SECTION 3. This Act takes effect September 1, 2015.

The amendment was read.

Senator Rodríguez moved to concur in the House amendment to **SB 818**.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Burton.

SENATE BILL 610 WITH HOUSE AMENDMENT

Senator Perry called **SB 610** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 610** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to limited liability for an agritourism entity involved in an agritourism activity.

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

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 75A to read as follows:

CHAPTER 75A. LIMITED LIABILITY FOR AGRITOURISM ACTIVITIES

Sec. 75A.001. DEFINITIONS. In this chapter:

(1) "Agricultural land" means land that is located in this state and that is suitable for:

(A) use in production of plants and fruits grown for human or animal consumption, or plants grown for the production of fibers, floriculture, viticulture, horticulture, or planting seed; or

(B) domestic or native farm or ranch animals kept for use or profit.

(2) "Agritourism activity" means an activity on agricultural land for recreational or educational purposes of participants, without regard to compensation.

(3) "Agritourism entity" means a person engaged in the business of providing an agritourism activity, without regard to compensation, including a person who displays exotic animals to the public on agricultural land.

(4) "Agritourism participant" means an individual, other than an employee of an agritourism entity, who engages in an agritourism activity.

(5) "Agritourism participant injury" means an injury sustained by an agritourism participant, including bodily injury, emotional distress, death, property damage, or any other loss arising from the person's participation in an agritourism activity.

(6) "Premises" has the meaning assigned by Section 75.001.

(7) "Recreation" has the meaning assigned by Section 75.001.

Sec. 75A.002. LIMITED LIABILITY. (a) Except as provided by Subsection (b), an agritourism entity is not liable to any person for an agritourism participant injury or damages arising out of the agritourism participant injury if:

(1) at the time of the agritourism activity from which the injury arises, the warning prescribed by Section 75A.003 was posted in accordance with that section; or

(2) the agritourism entity obtained in accordance with Section 75A.004 a written agreement and warning statement from the agritourism participant with respect to the agritourism activity from which the injury arises.

(b) This section does not limit liability for an injury:

(1) proximately caused by:

(A) the agritourism entity's negligence evidencing a disregard for the safety of the agritourism participant;

(B) one of the following dangers, of which the agritourism entity had actual knowledge or reasonably should have known:

(i) a dangerous condition on the land, facilities, or equipment used in the activity; or

(ii) the dangerous propensity, that is not disclosed to the agritourism participant, of a particular animal used in the activity; or

(C) the agritourism entity's failure to train or improper training of an employee of the agritourism entity actively involved in an agritourism activity; or

(2) intentionally caused by the agritourism entity.

(c) A limitation on liability provided by this section to an agritourism entity is in addition to other limitations of liability.

Sec. 75A.003. POSTED WARNING. For the purposes of limitation of liability under Section 75A.002(a)(1), an agritourism entity must post and maintain a sign in a clearly visible location on or near any premises on which an agritourism activity is conducted. The sign must contain the following language:

WARNING

UNDER TEXAS LAW (CHAPTER 75A, CIVIL PRACTICE AND REMEDIES CODE), AN AGRITOURISM ENTITY IS NOT LIABLE FOR ANY INJURY TO OR DEATH OF AN AGRITOURISM PARTICIPANT RESULTING FROM AN AGRITOURISM ACTIVITY.

Sec. 75A.004. SIGNED AGREEMENT AND WARNING. For the purposes of limitation of liability under Section 75A.002(a)(2), a written agreement and warning statement is considered effective and enforceable if it:

(1) is signed before the agritourism participant participates in an agritourism activity;

(2) is signed by the agritourism participant or, if the agritourism participant is a minor, the agritourism participant's parent, managing conservator, or guardian;

(3) is in a document separate from any other agreement between the agritourism participant and the agritourism entity other than a different warning, consent, or assumption of risk statement;

(4) is printed in not less than 10-point bold type; and

(5) contains the following language:

AGREEMENT AND WARNING

I UNDERSTAND AND ACKNOWLEDGE THAT AN AGRITOURISM ENTITY IS NOT LIABLE FOR ANY INJURY TO OR DEATH OF AN AGRITOURISM PARTICIPANT RESULTING FROM AGRITOURISM ACTIVITIES. I UNDERSTAND THAT I HAVE ACCEPTED ALL RISK OF INJURY, DEATH, PROPERTY DAMAGE, AND OTHER LOSS THAT MAY RESULT FROM AGRITOURISM ACTIVITIES.

SECTION 2. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator Perry moved to concur in the House amendment to **SB 610**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 304 WITH HOUSE AMENDMENT

Senator Schwertner called **SB 304** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 304** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to certain violations committed by long-term care facilities, including violations that constitute the abuse and neglect of residents.

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

SECTION 1. (a) It is the intent of the legislature that Section 242.061, Health and Safety Code, as amended by this section, establish a ceiling or maximum number of violations related to the abuse and neglect of a resident that a facility can commit before the executive commissioner is required to revoke the facility's license. The changes in law made by this section are not intended to limit or diminish the department's permissive authority to revoke a license under Chapter 242, Health and Safety Code.

(b) Section 242.061, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), (c-1), (e), and (e-1) to read as follows:

(a) In this section:

(1) "Abuse" has the meaning assigned by Section 260A.001.

(2) "Immediate threat to health and safety" means a situation in which immediate corrective action is necessary because the facility's noncompliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

(3) "Neglect" has the meaning assigned by Section 260A.001.

(a-1) The department, after providing notice and opportunity for a hearing to the applicant or license holder, may deny, suspend, or revoke a license if the department finds that the applicant, the license holder, or any other person described by Section 242.032(d) has:

(1) violated this chapter or a rule, standard, or order adopted or license issued under this chapter in either a repeated or substantial manner;

(2) committed any act described by Sections 242.066(a)(2)-(6); or

(3) failed to comply with Section 242.074.

(a-2) Except as provided by Subsection (a-3) or (e-1), the executive commissioner shall revoke a license under Subsection (a-1) if the department finds that:

(1) the license holder has committed three violations described by Subsection (a-1), within a 24-month period, that constitute an immediate threat to health and safety related to the abuse or neglect of a resident; and

(2) each of the violations described by Subdivision (1) is reported in connection with a separate survey, inspection, or investigation visit that occurred on separate entrance and exit dates.

(a-3) The executive commissioner may not revoke a license under Subsection (a-2) due to a violation described by Subsection (a-2)(1), if:

(1) the violation and the determination of immediate threat to health and safety are not included on the written list of violations left with the facility at the time of the initial exit conference under Section 242.0445(b) for a survey, inspection, or investigation;

(2) the violation is not included on the final statement of violations described by Section 242.0445; or

(3) the violation has been reviewed under the informal dispute resolution process established by Section 531.058, Government Code, and a determination was made that:

(A) the violation should be removed from the license holder's record; or

(B) the violation is reduced in severity so that the violation is no longer cited as an immediate threat to health and safety related to the abuse or neglect of a resident.

(c-1) In the case of revocation of a license under Subsection (a-2), to ensure the health and safety of residents of the institution, the department may:

(1) request the appointment of a trustee to operate the institution under Subchapter D;

- (2) assist with obtaining a new operator for the institution; or
- (3) assist with the relocation of residents to another institution.

(e) The executive commissioner may stay a license revocation required by Subsection (a-2) if the executive commissioner determines that the stay would not jeopardize the health and safety of the residents of the facility or place the residents at risk of abuse or neglect. The executive commissioner by rule shall establish criteria under which a license revocation may be stayed under this subsection. The executive commissioner shall follow negotiated rulemaking procedures prescribed by Chapter 2008, Government Code, for the adoption of rules establishing the criteria. The criteria established must permit the executive commissioner to stay a license revocation of a nursing facility for which the department has deployed a rapid response team under Section 255.004, if the facility has cooperated with the rapid response team and demonstrated improvement in quality of care, as determined by the rapid response team.

(e-1) The executive commissioner may stay a license revocation required by Subsection (a-2) for a veterans home, as defined by Section 164.002, Natural Resources Code, if the Veterans' Land Board contracts with a different entity to operate the veterans home than the entity that operated the home during the period in which the violations described by Subsection (a-2) occurred.

SECTION 2. Section 242.0615(a), Health and Safety Code, is amended to read as follows:

(a) The department, after providing notice and opportunity for a hearing, may exclude a person from eligibility for a license under this chapter if the person or any person described by Section 242.032(d) has substantially failed to comply with this chapter and the rules adopted under this chapter. The authority granted by this subsection is in addition to the authority to deny issuance of a license under Section 242.061(a-1) ~~[242.061(a)]~~.

SECTION 3. Section 255.003, Health and Safety Code, is amended by amending Subsections (b), (e), and (j) and adding Subsections (b-1) and (i-1) to read as follows:

(b) Monitoring ~~[Priority for monitoring]~~ visits shall be given to long-term care facilities:

- (1) with a history of patient care deficiencies; or
- (2) that are identified as medium risk through the department's early warning system.

(b-1) A long-term care facility may request a monitoring visit under this section.

(e) Quality-of-care monitors shall assess:

- (1) the overall quality of life in the long-term care facility; and
- (2) specific conditions in the facility directly related to patient care, including conditions identified through the long-term care facility's quality measure reports based on Minimum Data Set Resident Assessments.

(i-1) The department shall schedule a follow-up visit not later than the 45th day after the date of an initial monitoring visit conducted under this section.

(j) Conditions observed by the quality-of-care monitor that create an immediate threat to the health or safety of a resident shall be reported immediately to the long-term care facility administrator, to the regional office supervisor for appropriate action, and, as appropriate or as required by law, to law enforcement, adult protective services, other divisions of the department, or other responsible agencies.

SECTION 4. Section 255.004, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) In this section:

(1) "Abuse" has the meaning assigned by Section 260A.001.

(2) "Immediate threat to health and safety" means a situation in which immediate corrective action is necessary because the facility's noncompliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

(3) "Neglect" has the meaning assigned by Section 260A.001.

(a-1) The department shall create rapid response teams composed of health care experts that can visit a long-term care facility that:

(1) is [facilities] identified as high risk through the department's early warning system; or

(2) if the long-term care facility is a nursing institution, has committed three violations described by Section 242.061(a-1), within a 24-month period, that constitute an immediate threat to health and safety related to the abuse or neglect of a resident.

(a-2) A long-term care facility shall cooperate with a rapid response team deployed under this section to improve the quality of care provided at the facility.

SECTION 5. Section 531.058, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) As part of the informal dispute resolution process established under this section, the commission shall contract with an appropriate disinterested person who is a nonprofit organization to adjudicate disputes between an institution or facility licensed under Chapter 242, Health and Safety Code, and the Department of Aging and Disability Services concerning a statement of violations prepared by the department in connection with a survey conducted by the department of the institution or facility. Section 2009.053 does not apply to the selection of an appropriate disinterested person under this subsection. The person with whom the commission contracts shall adjudicate all disputes described by this subsection.

SECTION 6. (a) As soon as possible after the effective date of this Act, the Department of Aging and Disability Services or the Health and Human Services Commission, as appropriate, shall apply for any waiver or other authorization from a federal agency that is necessary to implement this Act. The department and commission may delay implementing this Act until the waiver or authorization is granted.

(b) As soon as practicable after the effective date of this Act:

(1) the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement Section 531.058(a-1), Government Code, as added by this Act; and

(2) the Department of Aging and Disability Services and the Health and Human Services Commission shall, as appropriate, revise or enter into a memorandum of understanding as required by a federal agency that is necessary to implement Section 531.058(a-1), Government Code, as added by this Act.

SECTION 7. Sections 242.061(a-2) and (a-3), Health and Safety Code, as added by this Act, apply only to a violation committed on or after September 1, 2016. A violation committed before September 1, 2016, is governed by the law in effect on the date the violation was committed, and the former law is continued in effect for that purpose. For purposes of this section, a violation was committed before September 1, 2016, if any element of the violation occurred before that date.

SECTION 8. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

(b) Sections 242.061(a-2) and (a-3), Health and Safety Code, as added by this Act, take effect September 1, 2016.

The amendment was read.

Senator Schwertner moved to concur in the House amendment to **SB 304**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1853 WITH HOUSE AMENDMENT

Senator Lucio called **SB 1853** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1853** (house committee report) on page 2, line 3, between "have" and "probable", by inserting "reasonable suspicion or".

The amendment was read.

Senator Lucio moved to concur in the House amendment to **SB 1853**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 760 WITH HOUSE AMENDMENTS

Senator Schwertner called **SB 760** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 760** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 531.0213, Government Code, is amended by adding Subsections (b-1) and (e), amending Subsection (c), and amending Subsection (d), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

(b-1) The commission shall provide support and information services required by this section through a network of entities coordinated by the commission's office of the ombudsman or other division of the commission designated by the executive commissioner and composed of:

(1) the commission's office of the ombudsman or other division of the commission designated by the executive commissioner to coordinate the network;

(2) the office of the state long-term care ombudsman required under Subchapter F, Chapter 101A, Human Resources Code;

(3) the division within the commission responsible for oversight of Medicaid managed care contracts;

(4) area agencies on aging;

(5) aging and disability resource centers established under the Aging and Disability Resource Center initiative funded in part by the federal Administration on Aging and the Centers for Medicare and Medicaid Services; and

(6) any other entity the executive commissioner determines appropriate, including nonprofit organizations with which the commission contracts under Subsection (c).

(c) The commission may provide support and information services by contracting with ~~[a]~~ nonprofit organizations ~~[organization]~~ that are ~~[is]~~ not involved in providing health care, health insurance, or health benefits.

(d) As a part of the support and information services required by this section, the commission ~~[or nonprofit organization]~~ shall:

(1) operate a statewide toll-free assistance telephone number that includes relay services for persons with speech or hearing disabilities ~~[TDD lines]~~ and assistance for persons who speak Spanish;

(2) intervene promptly with the state Medicaid office, managed care organizations and providers, and any other appropriate entity on behalf of a person who has an urgent need for medical services;

(3) assist a person who is experiencing barriers in the Medicaid application and enrollment process and refer the person for further assistance if appropriate;

(4) educate persons so that they:

(A) understand the concept of managed care;

(B) understand their rights under Medicaid, including grievance and appeal procedures; and

(C) are able to advocate for themselves;

(5) collect and maintain statistical information on a regional basis regarding calls received by the assistance lines and publish quarterly reports that:

(A) list the number of calls received by region;

(B) identify trends in delivery and access problems;

(C) identify recurring barriers in the Medicaid system; and

(D) indicate other problems identified with Medicaid managed care;

~~[and]~~

(6) assist the state Medicaid office and managed care organizations and providers in identifying and correcting problems, including site visits to affected regions if necessary;

(7) meet the needs of all current and future Medicaid managed care recipients, including children receiving dental benefits and other recipients receiving benefits, under the:

(A) STAR Medicaid managed care program;

(B) STAR + PLUS Medicaid managed care program, including the Texas Dual Eligibles Integrated Care Demonstration Project provided under that program;

(C) STAR Kids managed care program established under Section 533.00253; and

(D) STAR Health program;

(8) incorporate support services for children enrolled in the child health plan established under Chapter 62, Health and Safety Code; and

(9) ensure that staff providing support and information services receives sufficient training, including training in the Medicare program for the purpose of assisting recipients who are dually eligible for Medicare and Medicaid, and has sufficient authority to resolve barriers experienced by recipients to health care and long-term services and supports.

(e) The commission's office of the ombudsman, or other division of the commission designated by the executive commissioner to coordinate the network of entities responsible for providing support and information services under this section, must be sufficiently independent from other aspects of Medicaid managed care to represent the best interests of recipients in problem resolution.

Floor Amendment No. 2

Amend **SB 760** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 48.002(a), Human Resources Code, is amended by adding Subdivision (11) to read as follows:

(11) "Home and community-based services" has the meaning assigned by Section 48.251.

SECTION _____. Section 48.002(b), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The definitions of "abuse," "neglect," ~~and~~ "exploitation," and "an individual receiving services" adopted by the executive commissioner as prescribed by Section 48.251(b) ~~[48.251]~~ apply to an investigation of abuse, neglect, or exploitation conducted under Subchapter F ~~[or H]~~.

SECTION _____. Section 48.003, Human Resources Code, is amended to read as follows:

Sec. 48.003. INVESTIGATIONS IN NURSING FACILITIES ~~[HOMES]~~, ASSISTED LIVING FACILITIES, AND SIMILAR FACILITIES. (a) Except as provided by Subsection (c), this ~~[This]~~ chapter does not apply if the alleged or suspected abuse, neglect, or exploitation occurs in a facility licensed under Chapter 242 or 247, Health and Safety Code.

(b) Alleged or suspected abuse, neglect, or exploitation that occurs in a facility licensed under Chapter 242 or 247, Health and Safety Code, is governed by Chapter 260A, Health and Safety Code, except as otherwise provided by Subsection (c).

(c) Subchapter F applies to an investigation of alleged or suspected abuse, neglect, or exploitation in which a provider of home and community-based services is or may be alleged to have committed the abuse, neglect, or exploitation, regardless of whether the facility in which those services were provided is licensed under Chapter 242 or 247, Health and Safety Code.

SECTION _____. Sections 48.051(a) and (b), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) Except as prescribed by Subsection (b), a person having cause to believe that an elderly person, a ~~[or]~~ person with a disability, or an individual receiving services from a provider as described by Subchapter F is in the state of abuse, neglect, or exploitation~~[, including a person with a disability who is receiving services as described by Section 48.252,]~~ shall report the information required by Subsection (d) immediately to the department.

(b) If a person has cause to believe that an elderly person or a person with a disability, other than an individual ~~[a person with a disability]~~ receiving services from a provider as described by Subchapter F ~~[Section 48.252]~~, has been abused, neglected, or exploited in a facility operated, licensed, certified, or registered by a state agency, the person shall report the information to the state agency that operates, licenses, certifies, or registers the facility for investigation by that agency.

SECTION _____. Section 48.103, Human Resources Code, is amended by amending Subsection (a), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subsection (c) to read as follows:

(a) Except as otherwise provided by Subsection (c), on ~~[On]~~ determining after an investigation that an elderly person or a person with a disability has been abused, exploited, or neglected by an employee of a home and community support services agency licensed under Chapter 142, Health and Safety Code, the department shall:

(1) notify the state agency responsible for licensing the home and community support services agency of the department's determination;

(2) notify any health and human services agency, as defined by Section 531.001, Government Code, that contracts with the home and community support services agency for the delivery of health care services of the department's determination; and

(3) provide to the licensing state agency and any contracting health and human services agency access to the department's records or documents relating to the department's investigation.

(c) This section does not apply to an investigation of alleged or suspected abuse, neglect, or exploitation in which a provider, as defined by Section 48.251, is or may be alleged to have committed the abuse, neglect, or exploitation. An investigation described by this subsection is governed by Subchapter F.

SECTION _____. Section 48.151(e), Human Resources Code, is amended to read as follows:

(e) This section does not apply to investigations conducted under Subchapter F ~~[or H]~~.

SECTION _____. Section 48.201, Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 48.201. APPLICATION OF SUBCHAPTER. Except as otherwise provided, this subchapter does not apply to an investigation conducted under Subchapter F ~~[or H]~~.

SECTION _____. Subchapter F, Chapter 48, Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER F. INVESTIGATIONS OF ABUSE, NEGLECT, OR
EXPLOITATION OF INDIVIDUALS RECEIVING SERVICES FROM CERTAIN
PROVIDERS ~~[IN CERTAIN FACILITIES, COMMUNITY CENTERS, AND
LOCAL MENTAL HEALTH AND INTELLECTUAL AND DEVELOPMENTAL
DISABILITY AUTHORITIES]~~

Sec. 48.251. DEFINITIONS. (a) In this subchapter:

(1) "Behavioral health services" means:

(A) mental health services, as defined by Section 531.002, Health and Safety Code; and

(B) interventions provided to treat chemical dependency, as defined by Section 461A.002, Health and Safety Code.

(2) "Community center" has the meaning assigned by Section 531.002, Health and Safety Code.

(3) "Facility" means:

(A) a facility listed in Section 532.001(b) or 532A.001(b), Health and Safety Code, including community services operated by the Department of State Health Services or Department of Aging and Disability Services, as described by those sections, or a person contracting with a health and human services agency to provide inpatient mental health services; and

(B) a facility licensed under Chapter 252, Health and Safety Code.

(4) "Health and human services agency" has the meaning assigned by Section 531.001, Government Code.

(5) "Home and community-based services" means services provided in the home or community in accordance with 42 U.S.C. Section 1315, 42 U.S.C. Section 1315a, 42 U.S.C. Section 1396a, or 42 U.S.C. Section 1396n, and as otherwise provided by department rule.

(6) "Local intellectual and developmental disability authority" has the meaning assigned by Section 531.002, Health and Safety Code.

(7) "Local mental health authority" has the meaning assigned by Section 531.002, Health and Safety Code.

(8) "Managed care organization" has the meaning assigned by Section 533.001, Government Code.

(9) "Provider" means:

(A) a facility;

(B) a community center, local mental health authority, and local intellectual and developmental disability authority;

(C) a person who contracts with a health and human services agency or managed care organization to provide home and community-based services;

(D) a person who contracts with a Medicaid managed care organization to provide behavioral health services;

(E) a managed care organization;

(F) an officer, employee, agent, contractor, or subcontractor of a person or entity listed in Paragraphs (A)-(E); and

(G) an employee, fiscal agent, case manager, or service coordinator of an individual employer participating in the consumer-directed service option, as defined by Section 531.051, Government Code.

(b) The executive commissioner by rule shall adopt definitions of "abuse," "neglect," "exploitation," and "an individual receiving services" for purposes of this subchapter and ["exploitation" to govern] investigations conducted under this subchapter [and Subchapter H].

Sec. 48.252. INVESTIGATION OF REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION BY PROVIDER [IN CERTAIN FACILITIES AND IN COMMUNITY CENTERS]. (a) The department shall receive and, except as provided by Subsection (b), shall investigate under this subchapter reports of the abuse, neglect, or exploitation of an individual [with a disability] receiving services if the person alleged or suspected to have committed the abuse, neglect, or exploitation is a provider[-

[(1) in:

[(A) a mental health facility operated by the Department of State Health Services; or

[(B) a facility licensed under Chapter 252, Health and Safety Code;

[(2) in or from a community center, a local mental health authority, or a local intellectual and developmental disability authority; or

[(3) through a program providing services to that person by contract with a mental health facility operated by the Department of State Health Services, a community center, a local mental health authority, or a local intellectual and developmental disability authority].

(b) The department may not [shall receive and shall] investigate under this subchapter reports of [the] abuse, neglect, or exploitation alleged or suspected to have been committed by a provider that is operated, licensed, certified, or registered by a state agency that has authority under this chapter or other law to investigate reports of abuse, neglect, or exploitation of an individual by the provider. The department shall

forward any report of abuse, neglect, or exploitation alleged or suspected to have been committed by a provider described by this subsection to the appropriate state agency for investigation ~~[of an individual with a disability receiving services:~~

~~[(1) in a state supported living center or the ICF IID component of the Rio Grande State Center; or~~

~~[(2) through a program providing services to that person by contract with a state supported living center or the ICF IID component of the Rio Grande State Center].~~

(c) The department shall receive and investigate under this subchapter reports of abuse, neglect, or exploitation of an individual who lives in a residence that is owned, operated, or controlled by a provider who provides home and community-based services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, regardless of whether the individual is receiving services under that waiver program from the provider. [The executive commissioner by rule shall define who is "an individual with a disability receiving services."

~~[(d) In this section, "community center," "local mental health authority," and "local intellectual and developmental disability authority" have the meanings assigned by Section 531.002, Health and Safety Code.]~~

Sec. 48.253. ACTION ON REPORT. (a) On receipt by the department of a report of alleged abuse, neglect, or exploitation under this subchapter, the department shall initiate a prompt and thorough investigation as needed to evaluate the accuracy of the report and to assess the need for emergency protective services, unless the department, in accordance with rules adopted under this subchapter, determines that the report:

(1) is frivolous or patently without a factual basis; or

(2) does not concern abuse, neglect, or exploitation.

(b) After receiving a report that alleges that a provider is or may be the person who committed the alleged abuse, neglect, or exploitation, the department shall notify the provider and the appropriate health and human services agency in accordance with rules adopted by the executive commissioner.

(c) The provider identified under Subsection (b) shall:

(1) cooperate completely with an investigation conducted under this subchapter; and

(2) provide the department complete access during an investigation to:

(A) all sites owned, operated, or controlled by the provider; and

(B) clients and client records.

(d) The executive commissioner shall adopt rules governing investigations conducted under this subchapter.

Sec. 48.254. FORWARDING OF CERTAIN REPORTS. (a) The executive commissioner by rule shall establish procedures for the department to use to [H accordance with department rules, the department shall] forward a copy of the initial intake report and a copy of the completed provider investigation report relating to alleged or suspected abuse, neglect, or exploitation to the appropriate provider and health and human services agency [facility, community center, local mental health

~~authority, local intellectual and developmental disability authority, or program providing mental health or intellectual disability services under contract with the facility, community center, or authority].~~

(b) The department shall redact from an initial intake report and from the copy of the completed provider investigation report any identifying information contained in the report relating to the person who reported the alleged or suspected abuse, neglect, or exploitation under Section 48.051.

(c) A provider that receives a completed investigation report under Subsection (a) shall forward the report to the managed care organization with which the provider contracts for services for the alleged victim.

Sec. 48.255. RULES FOR INVESTIGATIONS UNDER THIS SUBCHAPTER.

(a) The executive commissioner [department, the Department of Aging and Disability Services, and the Department of State Health Services] shall adopt [develop] rules to:

(1) prioritize investigations conducted under this subchapter with the primary criterion being whether there is a risk that a delay in the investigation will impede the collection of evidence in that investigation;

(2) [facilitate investigations in state mental health facilities and state supported living centers.

[(b) The executive commissioner by rule shall] establish procedures for resolving disagreements between the department and health and human services agencies [the Department of Aging and Disability Services or the Department of State Health Services] concerning the department's investigation findings; and

(3) provide for an appeals process by the department for the alleged victim of abuse, neglect, or exploitation.

[(b) (e) The department, the Department of Aging and Disability Services, and the Department of State Health Services shall develop and propose to the executive commissioner rules to facilitate investigations in community centers, local mental health authorities, and local intellectual and developmental disability authorities.

[(e 1) The executive commissioner shall adopt rules regarding investigations in a facility licensed under Chapter 252, Health and Safety Code, to ensure that those investigations are as consistent as practicable with other investigations conducted under this subchapter.

[(d) A confirmed investigation finding by the department may not be changed by the administrator [a superintendent] of a [state mental health] facility, [by a director of a state supported living center, by a director of] a community center, [or by] a local mental health authority, or a local intellectual and developmental disability authority.

[(e) The executive commissioner shall provide by rule for an appeals process by the alleged victim of abuse, neglect, or exploitation under this section.

[(f) The executive commissioner by rule may assign priorities to an investigation conducted by the department under this section. The primary criterion used by the executive commissioner in assigning a priority must be the risk that a delay in the investigation will impede the collection of evidence.]

Sec. 48.256. SHARING PROVIDER INFORMATION. (a) The executive commissioner shall adopt rules that prescribe the appropriate manner in which health and human services agencies and managed care organizations provide the department with information necessary to facilitate identification of individuals receiving services from providers and to facilitate notification of providers by the department.

(b) The executive commissioner shall adopt rules requiring a provider to provide information to the administering health and human services agency necessary to facilitate identification by the department of individuals receiving services from providers and to facilitate notification of providers by the department.

(c) A provider of home and community-based services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, shall post in a conspicuous location inside any residence owned, operated, or controlled by the provider in which home and community-based waiver services are provided, a sign that states:

(1) the name, address, and telephone number of the provider;

(2) the effective date of the provider's contract with the applicable health and human services agency to provide home and community-based services; and

(3) the name of the legal entity that contracted with the applicable health and human services agency to provide those services.

Sec. 48.257. RETALIATION PROHIBITED. (a) A provider of home and community-based services may not retaliate against a person for filing a report or providing information in good faith relating to the possible abuse, neglect, or exploitation of an individual receiving services.

(b) This section does not prohibit a provider of home and community-based services from terminating an employee for a reason other than retaliation.

Sec. 48.258. ~~[SINGLE]~~ TRACKING SYSTEM FOR REPORTS AND INVESTIGATIONS. (a) The health and human services agencies ~~[department, the Department of Aging and Disability Services, and the Department of State Health Services]~~ shall, at the direction of the executive commissioner, jointly develop and implement a ~~[single]~~ system to track reports and investigations under this subchapter.

(b) To facilitate implementation of the system, the health and human services agencies ~~[department, the Department of Aging and Disability Services, and the Department of State Health Services]~~ shall use appropriate methods of measuring the number and outcome of reports and investigations under this subchapter.

SECTION ____ . Section 48.301, Human Resources Code, is amended by amending Subsection (a), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subsection (a-1) to read as follows:

(a) If the department receives a report of suspected abuse, neglect, or exploitation of an elderly person or a person with a disability~~[- other than a person with a disability who is]~~ receiving services ~~[as described by Section 48.252,]~~ in a facility operated, licensed, certified, or registered by a state agency, the department shall refer the report to that agency.

(a-1) This subchapter does not apply to a report of suspected abuse, neglect, or exploitation of an individual receiving services from a provider as described by Subchapter F.

SECTION _____. Sections 48.401(1) and (3), Human Resources Code, are amended to read as follows:

(1) "Agency" means:

(A) an entity licensed under Chapter 142, Health and Safety Code;

(B) a person exempt from licensing under Section 142.003(a)(19), Health and Safety Code;

(C) a facility licensed under Chapter 252, Health and Safety Code; or

(D) a provider ~~[an entity]~~ investigated by the department under Subchapter F or under Section 261.404, Family Code.

(3) "Employee" means a person who:

(A) works for:

(i) an agency; or

(ii) an individual employer participating in the consumer-directed service option, as defined by Section 531.051, Government Code;

(B) provides personal care services, active treatment, or any other ~~[personal]~~ services to an individual receiving agency services, an individual who is a child for whom an investigation is authorized under Section 261.404, Family Code, or an individual receiving services through the consumer-directed service option, as defined by Section 531.051, Government Code; and

(C) is not licensed by the state to perform the services the person performs for the agency or the individual employer participating in the consumer-directed service option, as defined by Section 531.051, Government Code.

SECTION _____. The heading to Section 261.404, Family Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 261.404. INVESTIGATIONS REGARDING CERTAIN CHILDREN RECEIVING SERVICES FROM CERTAIN PROVIDERS ~~[WITH MENTAL ILLNESS OR AN INTELLECTUAL DISABILITY]~~.

SECTION _____. Section 261.404, Family Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subsections (a) and (b) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) The department shall investigate a report of abuse, neglect, or exploitation of a child receiving services from a provider, as those terms are defined by Section 48.251, Human Resources Code, or as otherwise defined by rule. The department shall also investigate, under Subchapter F, Chapter 48, Human Resources Code, a report of abuse, neglect, or exploitation of a child receiving services from an officer, employee, agent, contractor, or subcontractor of a home and community support services agency licensed under Chapter 142, Health and Safety Code, if the officer, employee, agent, contractor, or subcontractor is or may be the person alleged to have committed the abuse, neglect, or exploitation[:

~~[(1) in a facility operated by the Department of Aging and Disability Services or a mental health facility operated by the Department of State Health Services;~~

~~[(2) in or from a community center, a local mental health authority, or a local intellectual and developmental disability authority;~~

~~[(3) through a program providing services to that child by contract with a facility operated by the Department of Aging and Disability Services, a mental health facility operated by the Department of State Health Services, a community center, a local mental health authority, or a local intellectual and developmental disability authority;~~

~~[(4) from a provider of home and community based services who contracts with the Department of Aging and Disability Services; or~~

~~[(5) in a facility licensed under Chapter 252, Health and Safety Code].~~

(a-1) For an investigation of a child living in a residence owned, operated, or controlled by a provider of services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, the department, in accordance with Subchapter E, Chapter 48, Human Resources Code, may provide emergency protective services necessary to immediately protect the child from serious physical harm or death and, if necessary, obtain an emergency order for protective services under Section 48.208, Human Resources Code.

(a-2) For an investigation of a child living in a residence owned, operated, or controlled by a provider of services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, regardless of whether the child is receiving services under that waiver program from the provider, the department shall provide protective services to the child in accordance with Subchapter E, Chapter 48, Human Resources Code.

(a-3) For purposes of this section, Subchapters E and F, Chapter 48, Human Resources Code, apply to an investigation of a child and to the provision of protective services to that child in the same manner those subchapters apply to an investigation of an elderly person or person with a disability and the provision of protective services to that person.

(b) The department shall investigate the report under rules developed by the executive commissioner ~~[with the advice and assistance of the department, the Department of Aging and Disability Services, and the Department of State Health Services].~~

SECTION _____. Section 142.009(c), Health and Safety Code, is amended to read as follows:

(c) The department or its authorized representative shall investigate each complaint received regarding the provision of home health, hospice, or personal assistance services~~[-, including any allegation of abuse, neglect, or exploitation of a child under the age of 18,]~~ and may, as a part of the investigation:

(1) conduct an unannounced survey of a place of business, including an inspection of medical and personnel records, if the department has reasonable cause to believe that the place of business is in violation of this chapter or a rule adopted under this chapter;

(2) conduct an interview with a recipient of home health, hospice, or personal assistance services, which may be conducted in the recipient's home if the recipient consents;

(3) conduct an interview with a family member of a recipient of home health, hospice, or personal assistance services who is deceased or other person who may have knowledge of the care received by the deceased recipient of the home health, hospice, or personal assistance services; or

(4) interview a physician or other health care practitioner, including a member of the personnel of a home and community support services agency, who cares for a recipient of home health, hospice, or personal assistance services.

SECTION _____. Section 260A.002, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding any other provision of this chapter, a report made under this section that a provider is or may be alleged to have committed abuse, neglect, or exploitation of a resident of a facility other than a prescribed pediatric extended care center shall be investigated by the Department of Family and Protective Services in accordance with Subchapter F, Chapter 48, Human Resources Code, and this chapter does not apply to that investigation. In this subsection, "facility" and "provider" have the meanings assigned by Section 48.251, Human Resources Code.

SECTION _____. The following are repealed:

(1) Section 261.404(f), Family Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015; and

(2) Subchapter H, Chapter 48, Human Resources Code.

The amendments were read.

Senator Schwertner moved to concur in the House amendments to **SB 760**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 873 WITH HOUSE AMENDMENT

Senator Rodríguez called **SB 873** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 873** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the courts authorized to hear certain matters relating to a *capias pro fine*.

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

SECTION 1. Article 43.05, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) If the court that issued the *capias pro fine* is unavailable, the arresting officer may, in lieu of placing the defendant in jail, take the defendant to:

(1) another court in the same county with jurisdiction over Class A and Class B misdemeanors or a county criminal law magistrate court in the same county, if the court that issued the *capias pro fine* was a county court or a statutory county court with Class A and Class B misdemeanor jurisdiction; or

(2) another court in the same county with jurisdiction over felony cases or a county criminal law magistrate court in the same county, if the court that issued the capias pro fine was a district court with felony jurisdiction.

SECTION 2. Article 45.045, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the court that issued the capias pro fine is unavailable, the arresting officer may, in lieu of placing the defendant in jail, take the defendant to:

(1) a justice of the peace court or county criminal law magistrate court with jurisdiction over Class C misdemeanors that is located in the same county, if the court that issued the capias pro fine was a justice of the peace court; or

(2) a municipal court that is located in the same municipality, if the court that issued the capias pro fine was a municipal court.

SECTION 3. Article 45.046, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) For purposes of a hearing described by Subsection (a), if the court that issued the capias pro fine is unavailable, the following judicial officers may conduct the hearing:

(1) a justice of the peace or county criminal law magistrate with jurisdiction over Class C misdemeanors who is located in the same county as the issuing court, if the issuing court was a justice of the peace court; or

(2) a municipal court judge who is located in the same municipality as the issuing court, if the issuing court was a municipal court.

SECTION 4. This Act takes effect September 1, 2015.

The amendment was read.

Senator Rodríguez moved to concur in the House amendment to **SB 873**.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Burton.

SENATE BILL 1512 WITH HOUSE AMENDMENT

Senator Hancock called **SB 1512** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1512** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Department of Motor Vehicles fund.

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

SECTION 1. On September 1, 2016, the Texas Department of Motor Vehicles fund created by Section 1001.151, Transportation Code, as enacted by Section 71, Chapter 1287 (H.B. 2202), Acts of the 83rd Legislature, Regular Session, 2013, is re-created by this Act as a special fund in the state treasury outside the general revenue fund, and all revenue dedicated for deposit to the credit of the Texas

Department of Motor Vehicles fund by a provision of Chapter 1287 (H.B. 2202), Acts of the 83rd Legislature, Regular Session, 2013, is rededicated by this Act for that purpose.

SECTION 2. On September 1, 2016, the comptroller shall transfer from the general revenue fund to the credit of the Texas Department of Motor Vehicles fund, as re-created by this Act, the amount of \$23 million.

SECTION 3. Except as specified by Section 2 of this Act, of the revenue dedicated for deposit to the credit of the Texas Department of Motor Vehicles fund by a provision of Chapter 1287 (H.B. 2202), Acts of the 83rd Legislature, Regular Session, 2013, the comptroller shall deposit to the credit of that fund only revenue received on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2016.

The amendment was read.

Senator Hancock moved to concur in the House amendment to **SB 1512**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1664 WITH HOUSE AMENDMENTS

Senator Perry called **SB 1664** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 1664** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Achieving a Better Life Experience (ABLE) Program; authorizing the imposition of fees.

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

SECTION 1. Section 54.602(b), Education Code, is amended to read as follows:

(b) The board shall administer the following programs:

(1) the prepaid higher education tuition program established under this subchapter; ~~and~~

(2) the higher education savings plan established under Subchapter G;

(3) the prepaid tuition unit undergraduate education program established under Subchapter H;

(4) the Texas Save and Match Program established under Subchapter I; and

(5) the Texas Achieving a Better Life Experience Program established under Subchapter J.

SECTION 2. Chapter 54, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. TEXAS ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) PROGRAM

Sec. 54.901. PURPOSES OF PROGRAM. The purposes of this subchapter are as follows:

(1) to encourage and assist individuals and families in saving funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life; and

(2) to provide secure funding for qualified disability expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, the Medicaid program under Title XIX of the Social Security Act, the supplemental security income program under Title XVI of the Social Security Act, the beneficiary's employment, and other sources.

Sec. 54.902. DEFINITIONS. In this subchapter:

(1) "ABLE account" has the meaning assigned by Section 529A, Internal Revenue Code.

(2) "ABLE program" or "program" means the Texas Achieving a Better Life Experience Program created under this subchapter.

(3) "Board" means the Prepaid Higher Education Tuition Board established under Section 54.602.

(4) "Designated beneficiary" means a resident of this state with a disability who is an eligible individual and named as the designated beneficiary of an ABLE account.

(5) "Eligible individual" means a person who has certified to the board that the person is eligible to participate in the ABLE program.

(6) "Financial institution" means a bank, a trust company, a depository trust company, an insurance company, a broker-dealer, a registered investment company or investment manager, the Texas Safekeeping Trust Company, or another similar financial institution authorized to transact business in this state.

(7) "Internal Revenue Code" means the Internal Revenue Code of 1986.

(8) "Participant" means a designated beneficiary or the parent or custodian or other fiduciary of the beneficiary who has entered into a participation agreement under this subchapter.

(9) "Participation agreement" means an agreement between a participant and the board under this subchapter that conforms to the requirements prescribed by this subchapter.

(10) "Qualified disability expenses" means any expenses related to the eligible individual's blindness or disability that are made for the benefit of an eligible individual who is the designated beneficiary, and includes expenses for education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, oversight and monitoring, a funeral and burial, and other expenses approved under federal regulations adopted under Section 529A, Internal Revenue Code.

(11) "Texas ABLE savings plan account" means the Texas ABLE savings plan account created under Section 54.903.

Sec. 54.903. CREATION OF PROGRAM AND ACCOUNT; ADMINISTRATION. (a) The Texas Achieving a Better Life Experience (ABLE) Program is created under this subchapter. The Texas ABLE savings plan account is established as a trust fund outside of the state treasury.

(b) The board shall administer the ABLE program.

(c) The board, the office of the comptroller, and any manager or other contractor that contracts with the board to provide services under this subchapter are not covered entities for purposes of Chapter 181, Health and Safety Code.

Sec. 54.904. POWERS AND DUTIES OF BOARD. (a) To establish and administer the ABLE program, the board shall:

(1) develop and implement the program;

(2) adopt rules and establish policies and procedures to implement this subchapter to:

(A) permit the program to qualify as a qualified ABLE program under Section 529A, Internal Revenue Code;

(B) make changes to the program as necessary for the participants in the program to obtain or maintain federal income tax benefits or treatment provided by Section 529A, Internal Revenue Code, and exemptions under federal securities laws; and

(C) make changes to the program as necessary to ensure the program's compliance with all other applicable laws and regulations;

(3) either directly or through a contractual arrangement for investment or plan manager services with a financial institution or plan manager or another qualified entity, develop and provide information for participants and their families necessary to establish and maintain an ABLE account;

(4) enter into agreements with any financial institution or any state or federal agency or contractor or other entity as required to administer the program under this subchapter;

(5) enter into participation agreements with participants;

(6) solicit and accept any gifts, grants, legislative appropriations, and other funds from the state, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation;

(7) invest participant funds in appropriate investment instruments; and

(8) make provision for the payment of costs of administering the program.

(b) The board has all powers necessary or proper to carry out its duties under this subchapter and to effectuate the purposes of this subchapter, including the power to:

(1) sue and be sued;

(2) enter into contracts and other necessary instruments;

(3) enter into agreements or other transactions with the United States, state agencies, and other entities as necessary;

(4) appear on its own behalf before governmental agencies;

(5) contract for necessary goods and services, including specifying in the contract duties to be performed by the provider of a good or service that are a part of or are in addition to the person's primary duties under the contract;

(6) contract with another state that administers a qualified ABLE program as authorized by Section 529A, Internal Revenue Code, to provide residents of this state with access to a qualified ABLE program;

(7) engage the services of private consultants, trustees, records administrators, managers, legal counsel, auditors, and other appropriate parties or organizations for administrative or technical assistance;

- (8) participate in any government program;
- (9) impose fees and charges;
- (10) develop marketing plans or promotional materials or contract with a consultant to market the program;
- (11) make reports;
- (12) purchase liability insurance covering the board and employees and agents of the board;
- (13) make changes to the program as necessary for the participants in the program to obtain or maintain federal income tax benefits or treatment provided by Section 529A, Internal Revenue Code, and exemptions under federal securities laws; and
- (14) establish other policies, procedures, and eligibility criteria to implement this subchapter.

Sec. 54.9045. COLLECTION OF FEES. The board shall collect administrative fees and service charges in connection with any agreement, contract, or transaction relating to the program in amounts not exceeding the amount necessary to recover the cost of establishing and maintaining the program.

Sec. 54.905. INVESTMENT OF FUNDS. (a) All money paid by a participant in connection with a participation agreement shall be:

(1) deposited into an individual ABLE account held on behalf of that participant in the Texas ABLE savings plan account; and

(2) promptly invested by the board.

(b) The board at least annually shall establish and review the asset allocation and selection of the underlying investments of the ABLE program.

(c) The board may delegate to duly appointed financial institutions authority to act on behalf of the board in the investment and reinvestment of all or part of the funds and may also delegate to those financial institutions the authority to act on behalf of the board in the holding, purchasing, selling, assigning, transferring, or disposing of any or all of the securities and investments in which the funds in the Texas ABLE savings plan account have been invested, as well as the proceeds from the investment of those funds.

(d) In delegating investment authority to financial institutions, the board may authorize the pooling of funds from the ABLE accounts with other funds administered by the board to maximize returns for participants. If funds from the ABLE accounts are pooled with other funds administered by the board, the board shall track, monitor, report, and record separately all investment activity related to the ABLE accounts, including any earnings and fees associated with each individual ABLE account.

(e) The board may select one or more financial institutions to serve as custodian of all or part of the program's assets.

(f) In the board's discretion, the board may contract with one or more financial institutions to serve as plan manager and to invest the money in ABLE accounts.

(g) A contract between the board and a financial institution to act as plan manager under this subchapter may be for a term of up to five years and may be renewable.

(h) In exercising or delegating investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. A member of the board is not liable for any action taken or omitted with respect to the exercise of, or delegation of, those powers and authority if the member discharged the duties of the member's position in good faith and with the degree of diligence, care, and skill that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(i) In administering this subchapter, the board is subject to the board's ethics policy adopted under Section 54.6085.

Sec. 54.906. TREATMENT OF ASSETS. (a) The assets of the ABLE program shall at all times be preserved, invested, and spent only for the purposes provided by this subchapter and in accordance with the participation agreements entered into under this subchapter.

(b) Except as provided by Section 529A, Internal Revenue Code, the state does not have a property right in the assets of the ABLE program.

Sec. 54.9065. EXCLUSION OF ABLE ACCOUNT ASSETS FROM CERTAIN BENEFIT ELIGIBILITY DETERMINATIONS. Notwithstanding any other provision of state law that requires consideration of the financial circumstances of an applicant for assistance or a benefit provided under that law, the agency making the determination of eligibility for the assistance or benefit may not consider the amount in the applicant's ABLE account, including earnings on that amount, and any distribution for qualified disability expenses in determining the applicant's eligibility to receive and the amount of the assistance or benefit with respect to the period during which the individual maintains the ABLE account.

Sec. 54.907. EXEMPTION FROM SECURITIES LAWS. An ABLE account is not a security within the meaning of the term as defined by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes), and is exempt from the provisions of The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).

Sec. 54.908. PARTICIPATION AGREEMENTS. (a) Under the ABLE program, the board may enter into participation agreements with participants on behalf of designated beneficiaries.

(b) A participation agreement may include the following terms:

(1) the requirements and applicable restrictions for:

(A) opening an ABLE account;

(B) making contributions to an ABLE account; and

(C) directly or indirectly, directing the investment of the contributions or balance of the ABLE account;

(2) the eligibility requirements for a participant to enter into a participation agreement and the rights of that participant;

(3) the administrative fee and other fees and charges applicable to an ABLE account;

(4) the terms and conditions under which an ABLE account or participation agreement may be modified, transferred, or terminated;

(5) the method of disposition of abandoned ABLE accounts; and

(6) any other terms and conditions the board considers necessary or appropriate, including those necessary to conform the ABLE account to the requirements of Section 529A, Internal Revenue Code, or other applicable federal law.

(c) The participation agreement may be amended throughout the term of the agreement, including to allow a participant to increase or decrease the level of participation and to change the designated beneficiary or other matters authorized by this section and Section 529A, Internal Revenue Code.

(d) If the board finds a participant has made a material misrepresentation in the application for a participation agreement or in any communication regarding the ABLE program, the board may liquidate the participant's ABLE account. If the board liquidates an ABLE account under this subsection, the participant is entitled to a refund, subject to any charges or fees provided by the participation agreement and the Internal Revenue Code.

Sec. 54.9085. ENCUMBRANCE OR TRANSFER OF ACCOUNT PROHIBITED. (a) An ABLE account may not be assigned for the benefit of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or charge.

(b) Notwithstanding Subsection (a), the state is a permissible creditor upon the death of a designated beneficiary for the purposes set forth in Section 529A, Internal Revenue Code.

Sec. 54.909. USE OF FUND ASSETS. The assets of the program may only be used to:

(1) make distributions to designated beneficiaries;

(2) pay the costs of program administration and operations;

(3) make refunds for cancellations, excess contributions, liquidation under Section 54.908(d), and death, in accordance with a computation method determined by the board;

(4) roll over funds to another ABLE account to the extent authorized by Section 529A, Internal Revenue Code; and

(5) make distributions to the state as authorized by Section 529A, Internal Revenue Code.

Sec. 54.910. DESIGNATED BENEFICIARY. (a) The participant is the designated beneficiary and the owner of the ABLE account except as described by Subsection (b) and as otherwise permitted by Section 529A, Internal Revenue Code.

(b) If the designated beneficiary of the account is a minor or has a custodian or other fiduciary appointed for the purpose of managing the minor's financial affairs, the parent or custodian or other fiduciary of the beneficiary may serve as the participant if that form of ownership is permitted or not prohibited by Section 529A, Internal Revenue Code.

(c) A designated beneficiary may own only one ABLE account, and each ABLE account may have only one owner, except as otherwise permitted by Section 529A, Internal Revenue Code.

Sec. 54.911. VERIFICATION UNDER OATH. The board may require a participant to verify under oath:

(1) the participant's certification as an eligible individual;

(2) the participant's selection to change a designated beneficiary;

- (3) the participant's selection to cancel a participation agreement; and
- (4) any other information the board may require.

Sec. 54.912. CANCELLATION. (a) A participant may cancel a participation agreement at will.

(b) Each participation agreement must provide that the agreement may be canceled on the terms and conditions and on payment of applicable fees and costs as provided by rule.

Sec. 54.913. REPORTS. (a) The board shall comply with the reporting requirements in Section 529A, Internal Revenue Code.

(b) The board shall report financial information related to the ABLE program in an annual financial report in accordance with the comptroller's requirements and guidelines for state agencies.

(c) The board shall include financial information for the ABLE program in the board's annual report posted on the board's website.

(d) The board shall prepare any other reports required by state or federal rules and regulations.

Sec. 54.914. CONFIDENTIALITY OF RECORDS. (a) Except as otherwise provided by this section, all information relating to the program is public and subject to disclosure under Chapter 552, Government Code.

(b) Information relating to a prospective or current participant or designated beneficiary or to a participation agreement, including any personally identifiable information, is confidential except that the board may disclose that information to:

(1) a participant regarding the participant's account; or

(2) a state or federal agency as necessary to administer the program or as required by Section 529A, Internal Revenue Code, or other federal or state requirements.

Sec. 54.915. PROGRAM LIMITATIONS. (a) Nothing in this subchapter or in any participation agreement entered into under this subchapter may be construed to guarantee that amounts saved under the program will be sufficient to cover the qualified disability expenses of a designated beneficiary.

(b) Nothing in this subchapter or in any participation agreement entered into under this subchapter may be construed to create any obligation of the state, any agency or instrumentality of the state, or a plan manager to guarantee for the benefit of a participant:

(1) the return of any amount contributed to an account;

(2) the rate of interest or other return on an account; or

(3) the payment of interest or other return on an account.

(c) The board by rule shall require that informational materials used in connection with a contribution to an ABLE account clearly indicate that the account is not insured by this state and that neither the principal deposited nor the investment return is guaranteed by the state.

Sec. 54.916. TERMINATION OR MODIFICATION OF PROGRAM. (a) If the comptroller determines that the ABLE program is not financially feasible, the comptroller shall notify the governor and the legislature and recommend that the board not administer an ABLE program or that the program be modified or terminated.

(b) If the comptroller determines that the ABLE program is not financially feasible, the board may adjust the terms of participation agreements as necessary to ensure the financial feasibility of the program.

(c) If the ABLE program is terminated, the balance of each ABLE account shall be paid to the participant, to the extent possible.

Sec. 54.917. ABLE PROGRAM ADVISORY COMMITTEE. (a) The ABLE program advisory committee is established to review rules and procedures related to the ABLE program, to provide guidance, suggest changes, and make recommendations for the administration of the program, and to provide assistance as needed to the board and comptroller during the creation of the program.

(b) The comptroller shall appoint the members of the advisory committee, including:

(1) persons with a disability who qualify for the program;

(2) family members of a person with a disability who qualifies for the program;

(3) representatives of disability advocacy organizations; and

(4) representatives of the financial community.

(c) The comptroller shall appoint a presiding officer.

(d) The advisory committee shall meet quarterly or more frequently as the presiding officer determines is necessary to carry out the responsibilities of the committee.

(e) A member of the advisory committee is not entitled to compensation or reimbursement for travel expenses.

(f) Chapter 2110, Government Code, does not apply to this section.

(g) This section expires and the advisory committee is abolished December 1, 2019.

SECTION 3. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4. The Prepaid Higher Education Tuition Board may begin enrollment in the ABLE program as soon as reasonably practical to allow sufficient time for successful development and implementation of the ABLE program.

SECTION 5. Not later than December 1, 2015, the comptroller shall appoint the members of the ABLE program advisory committee as required by Section 54.917, Education Code, as added by this Act.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

Floor Amendment No. 1

Amend **CSSB 1664** (house committee report) as follows:

(1) On page 14, line 13, immediately following the underlined period, insert "The program may be terminated only by the legislature.".

(2) On page 14, line 18, strike "ABLE program is terminated" and substitute "legislature terminates the ABLE program".

Floor Amendment No. 2

Amend **CSSB 1664** (house committee report) as follows:

(1) On page 14, line 27, strike "the members of" and substitute "at least five and not more than seven members to".

(2) On page 15, line 1, between "including" and the underlined colon, insert "at least one member from each of the following groups".

The amendments were read.

Senator Perry moved to concur in the House amendments to **SB 1664**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1385 WITH HOUSE AMENDMENT

Senator Schwertner called **SB 1385** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1385** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the authorization of the imposition of administrative penalties on providers participating in certain Medicaid waiver programs.

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

SECTION 1. Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.088 to read as follows:

Sec. 161.088. ADMINISTRATIVE PENALTIES. (a) This section applies to the following waiver programs established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)), and administered by the department to serve persons with an intellectual or developmental disability:

(1) the home and community-based services (HCS) waiver program; and

(2) the Texas home living (TxHmL) waiver program.

(b) The department may assess and collect an administrative penalty against a provider who participates in a program to which this section applies for a violation of a law or rule relating to the program. If the department assesses an administrative penalty against a provider for a violation of a law or rule, the department may not impose a payment hold against or otherwise withhold contract payments from the provider for the same violation of a law or rule.

(c) After consulting with appropriate stakeholders, the executive commissioner shall develop and adopt rules regarding the imposition of administrative penalties under this section. The rules must:

(1) specify the types of violations that warrant imposition of an administrative penalty;

(2) establish a schedule of progressive administrative penalties in accordance with the relative type, frequency, and seriousness of a violation;

(3) prescribe reasonable amounts to be imposed for each violation giving rise to an administrative penalty, subject to Subdivision (4);

(4) authorize the imposition of an administrative penalty in an amount not to exceed \$5,000 for each violation;

(5) provide that a provider commits a separate violation each day the provider continues to violate the law or rule;

(6) ensure standard and consistent application of administrative penalties throughout the state; and

(7) provide for an administrative appeals process to adjudicate claims and appeals relating to the imposition of an administrative penalty under this section that is in accordance with Chapter 2001, Government Code.

(d) In specifying the types of violations that warrant imposition of an administrative penalty under Subsection (c), the executive commissioner shall specify the types of minor violations that allow a provider an opportunity to take corrective action before a penalty is imposed.

(e) In establishing the schedule of progressive administrative penalties and penalty amounts under Subsection (c), the executive commissioner must consider:

(1) the seriousness of a violation, including:

(A) the nature, circumstances, extent, and gravity of the violation; and

(B) the hazard to the health or safety of recipients resulting from the

violation;

(2) the provider's history of previous violations;

(3) whether the provider:

(A) had prior knowledge of the violation, including whether the provider identified the violation through the provider's internal quality assurance process; and

(B) made any efforts to mitigate or correct the identified violation;

(4) the penalty amount necessary to deter future violations; and

(5) any other matter justice may require.

(f) In lieu of imposing an administrative penalty under this section, the department shall allow a provider found to have committed a minor violation specified by rule in accordance with Subsection (d) to have a reasonable period of time that is not less than 45 days after the date the department sends notice to the provider of the violation to take corrective action regarding the violation. The department may not allow time for corrective action for any violation that is not a minor violation.

SECTION 2. The Department of Aging and Disability Services may impose an administrative penalty in accordance with Section 161.088, Human Resources Code, as added by this Act, only for conduct that occurs on or after the effective date of this Act.

SECTION 3. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4. This Act takes effect September 1, 2015.

The amendment was read.

Senator Schwertner moved to concur in the House amendment to **SB 1385**.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Burton.

SENATE BILL 791 WITH HOUSE AMENDMENT

Senator Kolkhorst called **SB 791** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 791** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to education about congenital cytomegalovirus in infants.

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

SECTION 1. This Act shall be known as the Madeline Leigh Armstrong Act.

SECTION 2. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 46 to read as follows:

CHAPTER 46. CONGENITAL CYTOMEGALOVIRUS

Sec. 46.001. DEFINITION. In this chapter, "congenital cytomegalovirus" means cytomegalovirus acquired by an infant before birth.

Sec. 46.002. EDUCATIONAL MATERIALS ON CONGENITAL CYTOMEGALOVIRUS. (a) The department, in consultation with the Texas Medical Board, shall develop and publish informational materials for women who may become pregnant, expectant parents, and parents of infants regarding:

(1) the incidence of cytomegalovirus;
(2) the transmission of cytomegalovirus to pregnant women and women who may become pregnant;
(3) birth defects caused by congenital cytomegalovirus;
(4) available preventive measures to avoid the infection of women who are pregnant or may become pregnant; and
(5) resources available for families of children born with congenital cytomegalovirus.

(b) The materials must be published in:

(1) English and Spanish;
(2) an easily comprehensible form; and
(3) a typeface large enough to be clearly legible.

(c) The department shall periodically review the materials to determine if changes to the contents of the materials are necessary.

Sec. 46.003. PUBLICATION OF MATERIALS. (a) The department shall publish the information required to be published under this chapter on the department's Internet website.

(b) The department may not charge a fee for physical copies of the materials. The department shall provide appropriate quantities of the materials to any person on request.

Sec. 46.004. EDUCATION AND OUTREACH. (a) The department shall establish an outreach program to:

(1) educate women who may become pregnant, expectant parents, and parents of infants about cytomegalovirus; and

(2) raise awareness of cytomegalovirus among health care providers who provide care to expectant mothers or infants.

(b) The department may solicit and accept the assistance of any relevant medical associations or community resources, including faith-based resources, to promote education about cytomegalovirus under this chapter.

Sec. 46.005. RULES. The executive commissioner may adopt rules for the implementation of this chapter.

SECTION 3. Section 161.501(a), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) 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 shall:

(1) provide the woman and the father of the infant, if possible, or another adult caregiver for the infant, with a resource pamphlet that includes:

(A) a list of the names, addresses, and phone numbers of professional organizations that provide postpartum counseling and assistance to parents relating to postpartum depression and other emotional trauma associated with pregnancy and parenting;

(B) information regarding the prevention of shaken baby syndrome including:

(i) techniques for coping with anger caused by a crying baby;

(ii) different methods for preventing a person from shaking a newborn, infant, or other young child;

(iii) the dangerous effects of shaking a newborn, infant, or other young child; and

(iv) the symptoms of shaken baby syndrome and who to contact, as recommended by the American Academy of Pediatrics, if a parent suspects or knows that a baby has been shaken in order to receive prompt medical treatment;

(C) a list of diseases for which a child is required by state law to be immunized and the appropriate schedule for the administration of those immunizations;

(D) the appropriate schedule for follow-up procedures for newborn screening;

(E) information regarding sudden infant death syndrome, including current recommendations for infant sleeping conditions to lower the risk of sudden infant death syndrome; and

(F) educational information in both English and Spanish on:

(i) pertussis disease and the availability of a vaccine to protect against pertussis, including information on the Centers for Disease Control and Prevention recommendation that parents receive Tdap during the postpartum period to protect newborns from the transmission of pertussis; and

(ii) the incidence of cytomegalovirus, birth defects caused by congenital cytomegalovirus, and available resources for the family of an infant born with congenital cytomegalovirus;

(2) if the woman is a recipient of medical assistance under Chapter 32, Human Resources Code, provide the woman and the father of the infant, if possible, or another adult caregiver with 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, including information relating to:

(A) selecting and interacting with a primary health care practitioner and establishing a "medical home" for the child;

(B) dental care;

(C) effective parenting;

(D) child safety;

(E) the importance of reading to a child;

(F) expected developmental milestones;

(G) health care resources available in the state;

(H) selecting appropriate child care; and

(I) other resources available in the state;

(3) document in the woman's record that the woman received the resource pamphlet described in Subdivision (1) and the resource guide described in Subdivision (2), if applicable; and

(4) retain the documentation for at least five years in the hospital's, birthing center's, physician's, nurse midwife's, or midwife's records.

SECTION 4. (a) The Department of State Health Services shall develop and publish the materials required by Chapter 46, Health and Safety Code, as added by this Act, not later than January 1, 2016.

(b) The Department of State Health Services shall revise the pamphlet under Section 161.501(a), Health and Safety Code, as amended by this Act, not later than January 1, 2016.

SECTION 5. This Act takes effect September 1, 2015.

The amendment was read.

Senator Kolkhorst moved to concur in the House amendment to **SB 791**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(Senator Burton in Chair)

SENATE BILL 876 WITH HOUSE AMENDMENT

Senator Eltife called **SB 876** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 876** by adding the following appropriately numbered SECTION to the bill:

SECTION _____. Section 4153.055, Insurance Code, is amended to read as follows:

Sec. 4153.055. EXEMPTIONS FROM EXAMINATION AND CONTINUING EDUCATION REQUIREMENT. (a) An applicant is not required to take an examination to obtain a risk manager's license if the applicant holds the designation of:

(1) chartered property casualty underwriter (CPCU) from the American Institute for Chartered Property Casualty Underwriters;

(2) certified insurance counselor (CIC) from the national Society of Certified Insurance Counselors; [✂]

(3) associate in risk management (ARM) from the Insurance Institute of America; or

(4) Certified Risk Manager (CRM) from The National Alliance for Insurance Education & Research.

(b) A license holder who has held a designation described by Subsection (a)(2), (3), or (4) for a period of not less than 30 years is exempt from continuing education requirements established under this title.

The amendment was read.

Senator Eltife moved to concur in the House amendment to **SB 876**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1196 WITH HOUSE AMENDMENT

Senator Eltife called **SB 1196** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1196** (senate engrossed version) as follows:

(1) On page 8, strike lines 2-6.

(2) On page 9, strike lines 1-3 and 22-26.

(3) Renumber remaining subdivisions of Section 1154.003, Insurance Code, as added by the bill, accordingly.

(4) On page 10, lines 25-27, strike the last sentence of Section 1154.101, Insurance Code, as added by the bill.

The amendment was read.

Senator Eltife moved to concur in the House amendment to **SB 1196**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(Senator Eltife in Chair)

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate The Colony High

School One-Act Play State Championship cast and crew, accompanied by Theatre Director Morgan Craig and City Councilmember Kirk Mikulec.

The Senate welcomed its guests.

SENATE BILL 19 WITH HOUSE AMENDMENTS

Senator V. Taylor called **SB 19** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 19** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the ethics of public officers and employees, the disclosure of certain political contributions, and related requirements and procedures; creating criminal offenses.

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

ARTICLE 1. DISCLOSURE PROVISIONS

SECTION 1.01. Section 254.261, Election Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to a person to whom Subchapter K applies.

SECTION 1.02. Subchapter J, Chapter 254, Election Code, is amended by adding Section 254.263 to read as follows:

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

(1) a person who:

(A) is required to file a report under Section 254.261;

(B) controls a political committee;

(C) serves as the campaign treasurer of a candidate or political committee; or

(D) makes a political expenditure described by Section 253.100(a);

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

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

SECTION 1.03. Effective September 1, 2015, Chapter 254, Election Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. REPORTING BY CERTAIN PERSONS WHO ARE NOT POLITICAL COMMITTEES

Sec. 254.281. DEFINITIONS. In this subchapter:

(1) "Contribution" has the meaning assigned by Section 251.001 and includes dues and gifts, except that the term does not include a commercial transaction involving the transfer for consideration of anything of value pursuant to a contract or agreement that reflects the usual and normal business practice of an industry.

(2) "Contribution in connection with campaign activity" means a contribution from a donor to a person or group that, at the time that the donor makes the contribution, the donor knows or has reason to know may be used to make a political contribution or political expenditure or may be commingled with other funds used to make a political contribution or political expenditure. A donor who signs a statement indicating that the donor's contribution to the person or group may not be used to make a political contribution or political expenditure does not have reason to know that the donor's contribution may be used to make a political contribution or political expenditure.

(3) "Donor" means a person who makes a contribution to a person or group to whom this subchapter applies, regardless of whether the person making the contribution is a member of the person or group that accepts the contribution.

Sec. 254.282. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a person or group that:

(1) is not a political committee;

(2) accepts one or more contributions in connection with campaign activity from a person that in the aggregate exceed \$2,000 during a reporting period; and

(3) makes one or more political expenditures, excluding expenditures authorized by Sections 253.098, 253.099, 253.100, and 253.104, that in the aggregate exceed \$25,000 during a calendar year.

Sec. 254.283. REPORTING REQUIREMENTS. (a) Except as otherwise provided by this subchapter, a person or group shall comply with this chapter as if the person or group were the campaign treasurer of a general-purpose committee that does not file monthly reports under Section 254.155.

(b) A person or group is not required to file a campaign treasurer appointment for accepting contributions or making political expenditures for which reporting is required under this subchapter, unless the person or group is otherwise required to file a campaign treasurer appointment under this title.

(c) A person or group is not required to file a report under this subchapter if:

(1) the person or group is required to disclose the contributions and political expenditures in another report required under this title within the time applicable under this subchapter for reporting the contributions and political expenditures; or

(2) no reportable activity occurs during the reporting period.

Sec. 254.284. CONTENTS OF REPORT. (a) Disclosure of a contribution as provided by Sections 254.031 and 254.151 is required in a report under this subchapter only if:

(1) the contribution is a contribution in connection with campaign activity; and

(2) the aggregate amount of contributions in connection with campaign activity accepted from a person exceeds \$2,000 during the reporting period.

(b) A report required under this subchapter is not required to include:

(1) any contributions accepted by the person or group that are not contributions in connection with campaign activity;

(2) the total amount of unitemized political contributions accepted by the person or group;

(3) the total amount of political contributions maintained by the person or group;

(4) any expenditures made by the person or group that are not political expenditures;

(5) the total amount of unitemized political expenditures made by the person or group; or

(6) the principal amount of all of the person's or group's outstanding loans.

(c) The first report required to be filed in a calendar year in which the \$2,000 or \$25,000 threshold under Section 254.282 is exceeded must include all contributions in connection with campaign activity accepted from a person that in the aggregate exceed \$2,000 and all political expenditures made in the 12 months immediately preceding the acceptance of the contribution in connection with campaign activity or the making of the political expenditure that triggers the reporting requirements of this subchapter and not previously reported as required under this subchapter.

Sec. 254.285. NONREPORTABLE PERSONAL TRAVEL EXPENSE. A contribution consisting of personal travel expense incurred by an individual is not required to be reported under this subchapter if the individual receives no reimbursement for the expense.

Sec. 254.286. NONREPORTABLE PERSONAL SERVICE. A contribution consisting of an individual's personal service is not required to be reported under this subchapter if the individual receives no compensation for the service.

SECTION 1.04. Section 305.002(5), Government Code, is amended to read as follows:

(5) "Expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or any thing of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term does not include a payment benefiting a member of the legislative or executive branch if the member fully reimburses the person making the expenditure before the date on which the person would otherwise be required to report the payment under this title.

SECTION 1.05. Effective September 1, 2015, Section 305.027, Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) In this section:

(1) "Automated dial announcing device" means automated equipment used for telephone solicitation or collection that can:

(A) store telephone numbers to be called or produce numbers to be called through use of a random or sequential number generator; and

(B) convey, alone or in conjunction with other equipment, a prerecorded or synthesized voice message to the number called without the use of a live operator.

(2) "Legislative [~~legislative~~] advertising" means a communication that supports, opposes, or proposes legislation and that:

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

(B) [(2)] appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, button, or similar form of written communication; or

(C) is conveyed to a member of the legislature using an automated dial announcing device.

(f) A person commits an offense if the person knowingly communicates or knowingly enters into a contract to communicate legislative advertising to a member of the legislature using an automated dial announcing device. Notwithstanding Section 305.031, an offense under this subsection is a Class B misdemeanor.

SECTION 1.06. Section 572.021, Government Code, is amended to read as follows:

Sec. 572.021. FINANCIAL STATEMENT REQUIRED. (a) Except as provided by Section 572.0211, a state officer, a partisan or independent candidate for an office as an elected officer, and a state party chair shall file with the commission a verified financial statement complying with Sections 572.022 through 572.0252.

(b) Each financial statement filed under this subchapter must be submitted electronically through a secure website maintained by the commission using software that meets the commission's specifications.

SECTION 1.07. Section 572.023, Government Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) The account of financial activity consists of:

(1) a list of all sources of occupational income, identified by employer, or if self-employed, by the nature of the occupation, including identification of a person or other organization from which the individual or a business in which the individual has a substantial interest received a fee as a retainer for a claim on future services in case of need, as distinguished from a fee for services on a matter specified at the time of contracting for or receiving the fee, if professional or occupational services are not actually performed during the reporting period equal to or in excess of the amount of the retainer, and each source of a referral fee paid to a firm or other business entity in which the individual has a substantial interest, and the category of the amount of the fee;

(2) identification by name and the category of the number of shares of stock of any business entity held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(3) a list of all bonds, notes, and other commercial paper held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(4) identification of each source and the category of the amount of income in excess of \$500 derived from each source from interest, dividends, royalties, and rents;

(5) identification of each guarantor of a loan and identification of each person or financial institution to whom a personal note or notes or lease agreement for a total financial liability in excess of \$1,000 existed at any time during the year and the category of the amount of the liability;

(6) identification by description of all beneficial interests in real property and business entities held or acquired, and if sold, the category of the amount of the net gain or loss realized from the sale;

(7) identification of a person or other organization from which the individual or the individual's spouse or dependent children received a gift of anything of value in excess of \$250 and a description of each gift, except:

(A) a gift received from an individual related to the individual at any time within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573;

(B) a political contribution that was reported as required by Chapter 254, Election Code; and

(C) an expenditure required to be reported by a person required to be registered under Chapter 305;

(8) identification of the source and the category of the amount of all income received as beneficiary of a trust, other than a blind trust that complies with Subsection (c), and identification of each trust asset, if known to the beneficiary, from which income was received by the beneficiary in excess of \$500;

(9) identification by description and the category of the amount of all assets and liabilities of a corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association in which 50 percent or more of the outstanding ownership was held, acquired, or sold;

(10) a list of all boards of directors of which the individual is a member and executive positions that the individual holds in corporations, firms, partnerships, limited partnerships, limited liability partnerships, professional corporations, professional associations, joint ventures, or other business associations or proprietorships, stating the name of each corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association or proprietorship and the position held;

(11) identification of any person providing transportation, meals, or lodging expenses permitted under Section 36.07(b), Penal Code, and the amount of those expenses, other than expenditures required to be reported under Chapter 305;

(12) any corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association, excluding a publicly held corporation, in which both the individual and a person registered under Chapter 305 have an interest;

(13) identification by name and the category of the number of shares of any mutual fund held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale; ~~and~~

(14) identification of each blind trust that complies with Subsection (c), including:

(A) the category of the fair market value of the trust;

(B) the date the trust was created;

(C) the name and address of the trustee; and

(D) a statement signed by the trustee, under penalty of perjury, stating that:

(i) the trustee has not revealed any information to the individual, except information that may be disclosed under Subdivision (8); and

(ii) to the best of the trustee's knowledge, the trust complies with this section;

(15) identification of each contract or subcontract with a public entity to which the individual or the individual's spouse is a party and each paid relationship the individual or the individual's spouse has with a public entity; and

(16) identification of any other source of earned or unearned income not reported under another provision of this subsection, including federal or state governmental disability payments, other public benefits, or a pension, individual retirement account, or other retirement plan, and the category of the amount of income derived from each source.

(e) In this section:

(1) "Public benefit" includes the value of an exemption from taxation of the total appraised value of a residence homestead.

(2) "Public entity" includes this state and a political subdivision of this state.

SECTION 1.08. Subchapter B, Chapter 572, Government Code, is amended by adding Section 572.0231 to read as follows:

Sec. 572.0231. AFFIRMATION OF SUBMISSION OF FEDERAL INCOME TAX RETURN AND TAX PAYMENTS. (a) An individual filing a statement under this subchapter shall include with the statement an affirmation that:

(1) the individual has filed a federal personal income tax return for the preceding calendar year and has made all payments as required for federal income taxes owed by the individual for the preceding year; or

(2) the individual has filed for and is submitting the personal financial statement within the period of a valid extension for the filing of a federal personal income tax return.

(b) An individual filing a statement under this subchapter shall include with the statement an affirmation that the individual has paid all property taxes due and payable by the individual on the date the statement is filed.

SECTION 1.09. Subchapter B, Chapter 572, Government Code, is amended by adding Sections 572.0253 and 572.0254 to read as follows:

Sec. 572.0253. INFORMATION ABOUT GOVERNMENT CONTRACT CONSULTING SERVICES. (a) In this section, "government contract consulting services" means services to advise or assist a person or entity in maintaining, applying for, soliciting, or entering into a contract with this state or a political subdivision of this state.

(b) A state officer who receives compensation for government contract consulting services performed by the officer shall report on the financial statement the name of each person to whom the officer provided the services and the category of the amount of compensation actually received.

Sec. 572.0254. PRE-APPOINTMENT STATEMENT OF POLITICAL CONTRIBUTIONS MADE BY APPOINTED OFFICER OR SPOUSE. (a) In this section, "political contribution" has the meaning assigned by Section 251.001, Election Code.

(b) Notwithstanding the filing dates provided by Section 572.026, before being appointed as an appointed officer by the governor, lieutenant governor, or speaker of the house of representatives, an individual must file with the commission a statement

that discloses any political contributions made during the two years preceding the individual's nomination to the appointed office by the individual or the individual's spouse to:

- (1) the appointing officer as a candidate or officeholder; or
- (2) a specific-purpose political committee for:
 - (A) supporting the appointing officer;
 - (B) opposing the appointing officer's opponent; or
 - (C) assisting the appointing officer as an officeholder.

SECTION 1.10. Section 572.026(d), Government Code, is amended to read as follows:

(d) An individual required to file a financial statement under Subsection (a) may request the commission to grant an extension of not more than 60 days for filing the statement. ~~[The commission shall grant the request if it is received before the filing deadline or if a timely filing or request for extension is prevented because of physical or mental incapacity.]~~ The commission may not grant an ~~[more than one]~~ extension to an individual ~~[in one year]~~ except for good cause shown, as determined by the commission.

SECTION 1.11. Subchapter B, Chapter 572, Government Code, is amended by adding Section 572.0295 to read as follows:

Sec. 572.0295. PERSONAL FINANCIAL STATEMENT. (a) A person who files a report under this chapter may amend the report.

(b) A report that is amended before the eighth day after the date the original report was filed is considered to have been filed on the date on which the original report was filed.

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

- (1) the amendment is made before any complaint is filed with the commission regarding the subject of the amendment; and
- (2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION 1.12. Section 572.032, Government Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-2) and (d) to read as follows:

(a) Financial statements filed under this subchapter are public records. The commission shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours and make the statements available in a searchable format to the public on the commission's website not later than the third business day after the date the statement is required to be filed or is actually filed, whichever is later.

(a-2) The commission shall remove the home address of an individual from a financial statement filed by the individual under this subchapter before making the statement available to the public on the commission's Internet website.

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

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

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

(d) The commission is not required to continue to make available on its website a financial statement that may be destroyed under Subsection (c).

ARTICLE 2. CONFLICTS OF INTEREST

SECTION 2.01. Effective January 1, 2017, Subchapter A, Chapter 253, Election Code, is amended by adding Section 253.006 to read as follows:

Sec. 253.006. CERTAIN CONTRIBUTIONS AND EXPENDITURES BY LOBBYISTS RESTRICTED. (a) Notwithstanding any other provision of law, a person required to register under Chapter 305, Government Code, may not, before the second anniversary of the date the last term for which the person was elected ends, knowingly make or authorize a political contribution or political expenditure from political contributions accepted by the person as a candidate or officeholder.

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

SECTION 2.02. Effective September 1, 2015, Sections 305.0061(a), (b), and (c), Government Code, are amended to read as follows:

(a) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures that exceed an amount set by the commission that is not less than \$50 or greater than 60 percent of the amount of the legislative per diem in a day for transportation or lodging for a member of the legislative or executive branch or for the immediate family of a member of the legislative or executive branch, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) the place and date of the transportation or lodging; and

(3) the purpose of the transportation or lodging.

(b) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures that exceed an amount set by the commission that is not less than \$50 or greater than 60 percent of the amount of the legislative per diem in a day for food and beverages for a member of the legislative or executive branch or for the immediate family of a member of the legislative or executive branch or makes expenditures that exceed an amount set by the commission that is not less than \$50 or greater than 60 percent of the amount of the legislative per diem in a day for entertainment for a member of the legislative or executive branch or for the immediate family of a member of the legislative or executive branch, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) the place and date of the expenditure; and

(3) the amount of the expenditure by the appropriate category of the amount, as determined by the commission.

(c) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification gives to a member of the legislative or executive branch, or to the immediate family of a member of the legislative or executive branch, a gift or an award or memento, the value of which exceeds \$50 per gift, award, or memento, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) a general description of the gift, award, or memento; and

(3) the amount of the expenditure by the appropriate category of the amount, as determined by the commission.

SECTION 2.03. Effective January 1, 2017, Subchapter B, Chapter 305, Government Code, is amended by adding Section 305.029 to read as follows:

Sec. 305.029. EXPENDITURES FROM POLITICAL CONTRIBUTIONS RESTRICTED. (a) In this section, "political contribution" has the meaning assigned by Section 251.001, Election Code.

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

SECTION 2.04. Effective September 1, 2015, Section 572.002, Government Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Member of the governor's senior staff" means a person employed by the governor acting in the governor's official capacity whose regular job duties include:

(A) formulating policy or testifying before and meeting with members of the legislature; or

(B) supervising other employees in the governor's office whose regular job duties include those described by Paragraph (A).

SECTION 2.05. Effective January 1, 2017, Section 572.053, Government Code, is amended to read as follows:

Sec. 572.053. VOTING BY LEGISLATORS ON CERTAIN MEASURES OR BILLS; CRIMINAL OFFENSE. (a) In this section, "pecuniary benefit" includes the avoidance of a pecuniary detriment.

(b) A member of the legislature may not vote on a measure or a bill if the member or the member's spouse would receive a direct and substantial pecuniary benefit because of the vote, other than a measure that will affect an entire class of business entities, that will directly benefit a specific business transaction of a business entity in which the member has a controlling interest].

(c) [(b)] A member of the legislature is not prohibited from voting on a measure or bill if the benefit accrues to the member or the member's spouse as part of a class, including a profession, occupation, or industry, to no greater an extent than to the rest of the class [In this section, "controlling interest" includes:

[(1) an ownership interest or participating interest by virtue of shares, stock, or otherwise that exceeds 10 percent;

~~[(2) membership on the board of directors or other governing body of the business entity; or~~

~~[(3) service as an officer of the business entity].~~

(d) [(e)] A member of the legislature prohibited from voting on a measure or bill under Subsection (b) is not prohibited from participating in debate or deliberation in connection with the bill or measure.

(e) A member of the legislature commits an offense if the member intentionally votes on a measure or bill in violation of Subsection (b) [violates this section]. An offense under this subsection is a Class A misdemeanor.

SECTION 2.06. Effective January 1, 2017, Subchapter C, Chapter 572, Government Code, is amended by adding Section 572.0532 to read as follows:

Sec. 572.0532. ETHICS COUNSELOR; ETHICS ANALYSIS; CONFLICT OF INTEREST OPINION. (a) The ethics counselor is a licensed attorney designated by the Texas Legislative Council. The Texas Legislative Council may designate more than one ethics counselor.

(b) Not later than the 30th day after the legislature convenes in regular session, the ethics counselor shall review the most recently filed financial statement of each member of the legislature and shall provide the member with an ethics analysis of the member's financial interests. The ethics analysis shall identify the subjects of legislation upon which a vote by the member has the potential to violate the duties imposed by Section 572.053 and by Section 22, Article III, Texas Constitution.

(c) A member of the legislature may request an opinion with respect to the member's duty under Section 572.053 in relation to a specific bill or measure from the ethics counselor or another attorney designated by the legislative chamber in which the member serves. The ethics counselor or other attorney, as applicable, shall issue the opinion not later than the 10th day after receiving a request under this subsection. An opinion issued under this subsection is confidential.

(d) A member of the legislature who reasonably relies on an ethics analysis provided under Subsection (b) or an opinion issued under Subsection (c) is not subject to a criminal penalty or other sanction for a violation of Section 572.053, provided that the material facts are substantially similar to the facts stated in the opinion request.

(e) An ethics analysis provided under Subsection (b) is public information.

SECTION 2.07. Effective September 1, 2015, the heading to Section 572.054, Government Code, is amended to read as follows:

Sec. 572.054. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE OF GOVERNOR OR REGULATORY AGENCY RESTRICTED; CRIMINAL OFFENSE.

SECTION 2.08. Section 572.054, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A member of the governor's senior staff who ceases employment with the governor may not make any communication to or appearance before the governor or a member of the governor's senior staff for which the former staff member receives a benefit and with the intent to influence action by the governor before:

(1) the end of the governor's term during which the staff member's employment ceased; or

(2) if the staff member's employment ceased during the final 12 months of the governor's term, the end of that term and, if the governor is reelected, the next succeeding term of office.

SECTION 2.09. Effective September 1, 2015, Subchapter C, Chapter 572, Government Code, is amended by adding Section 572.063 to read as follows:

Sec. 572.063. CERTAIN REFERRALS FOR LEGAL SERVICES PROHIBITED. (a) A member of the legislature or an executive officer elected in a statewide election who is a member of the State Bar of Texas or who is licensed to practice law in another state, a federal court, or a United States territory may make or receive a referral for legal services for monetary compensation or any other benefit only if the referral:

(1) complies with the rules of the State Bar of Texas; and

(2) is evidenced by a written contract between the parties who are subject to the referral.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

ARTICLE 3. ETHICS COMMISSION FILINGS AND PROCEEDINGS

SECTION 3.01. Section 571.067, Government Code, is amended to read as follows:

Sec. 571.067. COMPUTER SOFTWARE. (a) The commission may develop computer software to facilitate the discharge of its statutory duties and for that purpose may:

(1) acquire, apply for, register, secure, hold, protect, and renew under the laws of the State of Texas, the United States, any state in the United States, or any nation:

(A) a patent for the invention, discovery, or improvement of any new and useful process, machine, manufacture, composition of matter, art, or method, including any new use of a known process, machine, manufacture, composition of matter, art, or method;

(B) a copyright for an original work of authorship fixed in any tangible medium of expression, now known or later developed, from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;

(C) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the commission uses to identify and distinguish its goods and services from other goods and services; or

(D) other evidence of protection or exclusivity issued for intellectual property;

(2) contract with a person or entity for the reproduction, distribution, public performance, display, advertising, marketing, lease, licensing, sale, use, or other distribution of the commission's intellectual property;

(3) obtain under a contract described in Subdivision (2) a royalty, license, right, or other appropriate means of securing reasonable compensation for the exercise of rights with respect to the commission's intellectual property; and

(4) waive, increase, or reduce the amount of compensation secured by a contract under Subdivision (3) if the commission determines that the waiver, increase, or reduction will:

(A) further a goal or mission of the commission; and

(B) result in a net benefit to the state.

(b) Money paid to the commission under this section shall be deposited to the credit of the general revenue fund.

SECTION 3.02. Section 571.0671, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Electronic report data saved in a commission temporary storage location for later retrieval and editing before the report is filed is confidential and may be withheld from disclosure without the necessity of requesting a decision from the attorney general. After the report is filed, the information disclosed in the report is subject to the law requiring the filing of the report.

SECTION 3.03. Section 571.0771(a), Government Code, is amended to read as follows:

(a) A statement, registration, or report required that is filed with the commission is not considered to be late for purposes of any applicable civil or criminal penalty for late filing of the statement, registration, or report if:

(1) any error or omission in the statement, registration, or report as originally filed was made in good faith; and

(2) not later than the 14th business day after the date the person filing the statement, registration, or report learns that the statement, registration, or report as originally filed is inaccurate or incomplete, the person files:

(A) a corrected or amended statement, registration, or report; and

(B) an affidavit stating that the error or omission in the original statement, registration, or report was made in good faith.

SECTION 3.04. Effective January 1, 2016, Section 571.133, Government Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) An appeal brought under this section is not limited to questions of law, and the substantial evidence rule does not apply. The action shall be determined by trial de novo. The reviewing court shall try all issues of fact and law in the manner applicable to other civil suits in this state but may not admit in evidence the fact of prior action by the commission or the nature of that action, except to the limited extent necessary to show compliance with statutory provisions that vest jurisdiction in the court. A party is entitled, on demand, to a jury determination of any issue of fact on which a jury determination is available in other civil suits in this state. This subsection does not apply to an appeal of a final decision of the commission if the final decision is that the respondent violated Chapter 305.

(e) An appeal of a final decision of the commission that the respondent violated Chapter 305 is considered to be a contested case under Chapter 2001 and the standard of review is by substantial evidence.

SECTION 3.05. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1401 to read as follows:

Sec. 571.1401. CERTAIN DISCLOSURE OF INFORMATION. (a) To protect the public interest, the commission may disclose to a law enforcement agency information that is confidential under Section 571.140(a).

(b) The commission may disclose information under this section only to the extent necessary for the recipient of the information to perform a duty or function that is in addition to the commission's duties and functions.

(c) Information disclosed to a law enforcement agency under this section remains confidential, and the agency must take appropriate measures to maintain that confidentiality.

(d) A person commits an offense if the person discloses confidential information obtained under this section. An offense under this subsection is a Class C misdemeanor.

SECTION 3.06. Section 571.176, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The commission may impose a civil penalty of not more than \$10,000 for the filing of a frivolous or bad-faith complaint. In this section:

(1) a complaint is frivolous if the complaint ~~[subsection, "frivolous complaint" means a complaint that]~~ is groundless and brought in bad faith or is groundless and brought for the purpose of harassment; and

(2) a complaint is groundless if the complaint does not allege a violation of the law that is material, nonclerical, or nontechnical.

(a-1) The commission shall award to the respondent of a frivolous complaint:

(1) costs, reasonable attorney's fees, and other expenses incurred in defending against the complaint as justice and equity may require; and

(2) sanctions against the person who filed the complaint as the commission determines sufficient to deter the person from filing similar frivolous complaints.

(a-2) The person who filed the complaint is liable to the respondent for the costs, fees, and expenses awarded by the commission under Subsection (a-1)(1).

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

ARTICLE 4. VACANCY ON CERTAIN CONVICTIONS

SECTION 4.01. Chapter 301, Government Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 301.901. VACANCY ON FINAL FELONY CONVICTION OF MEMBER OF LEGISLATURE. A member of the legislature convicted of a felony vacates the member's office on the date the conviction becomes final.

ARTICLE 5. RECORDS OF CERTAIN ORAL COMMUNICATIONS

SECTION 5.01. Section 306.002, Government Code, is amended to read as follows:

Sec. 306.002. APPLICATION. This chapter applies to:

(1) records and communications collected and maintained by members of the legislature and the lieutenant governor on June 12, 1985, as well as to records made and communications received by those officials on or after that date; and

(2) oral communications to members of the legislature and the lieutenant governor.

SECTION 5.02. Chapter 306, Government Code, is amended by adding Section 306.0041 to read as follows:

Sec. 306.0041. INTERCEPTION OF ORAL COMMUNICATIONS MADE IN THE CAPITOL. (a) In this chapter:

(1) "Intercept" means the aural acquisition of the contents of a communication through the use of an electronic, mechanical, or other device that is made without the consent of all parties to the communication, but does not include the ordinary use of:

(A) a telephone or telegraph instrument or facility or telephone or telegraph equipment;

(B) a hearing aid designed to correct subnormal hearing to not better than normal;

(C) a radio, television, or other wireless receiver; or

(D) a cable system that relays a public wireless broadcast from a common antenna to a receiver.

(2) "Protected oral communication" means an oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying that expectation. The term does not include an electronic communication.

(b) To ensure the right of the citizens of this state to petition state government, as guaranteed by Article I, Section 27, Texas Constitution, by protecting the confidentiality of communications of citizens with a member of the legislature or the lieutenant governor, a person has a justified expectation that the person's oral communication with a member of the legislature or the lieutenant governor while in the state capitol is not subject to interception. A person whose oral communication with a member of the legislature or the lieutenant governor consists of testimony at a public meeting of a legislative committee or agency does not have a justified expectation that the communication is not subject to interception.

(c) A party to a protected oral communication with a member of the legislature or the lieutenant governor while in the state capitol has a civil cause of action against a person who:

(1) intercepts, attempts to intercept, or employs or obtains another to intercept or attempt to intercept the communication; or

(2) uses or divulges information that the person knows or reasonably should know was obtained by interception of the communication.

(d) This section does not apply to a party to an oral communication if an interception or attempted interception of the communication is authorized by 18 U.S.C. Section 2516, or if the party has an affirmative defense to prosecution under Section 16.02, Penal Code, other than Subsection (c)(4) of that section.

(e) A person who establishes a cause of action under this section is entitled to:

(1) an injunction prohibiting a further interception, attempted interception, or divulgence or use of information obtained by an interception;

(2) statutory damages of \$10,000 for each occurrence;

(3) all actual damages in excess of \$10,000;

- (4) punitive damages in an amount determined by the court or jury; and
- (5) reasonable attorney's fees and costs.

(f) Chapter 27, Civil Practice and Remedies Code, does not apply to a legal action authorized by this section.

ARTICLE 6. REPEALER

SECTION 6.01. Section 572.032(b), Government Code, is repealed.

ARTICLE 7. TRANSITIONS; EFFECTIVE DATE

SECTION 7.01. Sections 253.006, Election Code, and 305.029, Government Code, as added by this Act, apply to a political contribution, political expenditure, or lobbying expenditure made on or after January 1, 2017, from funds accepted as a political contribution, regardless of the date the funds were accepted.

SECTION 7.02. Subchapter K, Chapter 254, Election Code, as added by this Act, applies only to the reporting of a contribution in connection with campaign activity or a political expenditure made on or after September 1, 2015. A contribution or expenditure made before September 1, 2015, is governed by the law in effect when the contribution or expenditure was made, and the former law is continued in effect for that purpose.

SECTION 7.03. The change in law made by this Act to Section 305.002, Government Code, applies only to an expenditure made on or after the effective date of this Act. An expenditure made before the effective date of this Act is governed by the law in effect when the expenditure was made, and the former law is continued in effect for that purpose.

SECTION 7.04. The changes in law made by this Act to Section 305.0061, Government Code, apply only to a gift, award, or memento given to or expenditures for transportation, lodging, food, beverages, or entertainment made for a member of the legislative or executive branch or the immediate family of a member of the legislative or executive branch on or after September 1, 2015. A gift, award, or memento given to or an expenditure for transportation, lodging, food, beverages, or entertainment made for a member of the legislative or executive branch or the immediate family of a member of the legislative or executive branch before September 1, 2015, is governed by the law in effect on the date the gift, award, or memento was given, or the date the expenditure for transportation, lodging, food, beverages, or entertainment was made, and the former law is continued in effect for that purpose.

SECTION 7.05. The change in law made by this Act to Chapter 306, Government Code, applies to a communication that is:

(1) described by Section 306.0041(c)(1), Government Code, as added by this Act, and made on or after the effective date of this Act; and

(2) used or divulged as described by Section 306.0041(c)(2), Government Code, as added by this Act, on or after the effective date of this Act, without regard to when the communication was made.

SECTION 7.06. Section 571.133, Government Code, as amended by this Act, applies only to an appeal of a final decision of the Texas Ethics Commission filed on or after January 1, 2016. An appeal of a final decision of the Texas Ethics Commission filed before January 1, 2016, is governed by the law in effect when the appeal was filed, and the former law is continued in effect for that purpose.

SECTION 7.07. The changes in law made by this Act to Subchapter B, Chapter 572, Government Code, apply only to a financial statement filed under Subchapter B, Chapter 572, Government Code, as amended by this Act, on or after January 1, 2016. A financial statement filed before January 1, 2016, is governed by the law in effect on the date of filing, and the former law is continued in effect for that purpose.

SECTION 7.08. (a) The changes in law made by this Act to Sections 305.027(f), 572.054, and 572.063, Government Code, apply only to an offense committed on or after September 1, 2015. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before September 1, 2015, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 7.09. (a) The change in law made by this Act to Section 572.053, Government Code, applies only to an offense committed on or after January 1, 2017. For purposes of this section, an offense is committed before January 1, 2017, if any element of the offense occurs before that date.

(b) An offense committed before January 1, 2017, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 7.10. Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

Floor Amendment No. 1

Amend **CSSB 19** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION _____. Section 254.031, Election Code, is amended by adding Subsection (c) to read as follows:

(c) An expenditure is reportable only for the date on which it is made as provided by Section 254.035.

Floor Amendment No. 2

Amend **CSSB 19** (house committee printing) as follows:

(1) Strike page 11, line 23, through page 12, line 6, and substitute the following:

Sec. 572.0231. AFFIRMATION OF SUBMISSION OF FEDERAL INCOME TAX RETURN AND TAX PAYMENTS. (a) An individual filing a statement under this subchapter shall include with the statement an affirmation that:

(1) the individual has filed the federal personal income tax return due during the 12 months preceding the filing date for the statement and has made all payments as required for federal income taxes owed by the individual for that year; or

(2) the individual has a valid extension of the filing deadline for the federal personal income tax return due during the 12 months preceding the filing date for the statement and is within the extension period.

(2) On page 13, lines 16-17, strike "Section 572.026(d), Government Code, is amended" and substitute "Section 572.026, Government Code, is amended by amending Subsection (d) and adding Subsection (e)".

(3) On page 13, between lines 26 and 27, insert the following:

(e) For purposes of Subsection (d), "good cause" includes attending a regular or special session of the legislature by a member of the legislature.

Floor Amendment No. 3

Amend **CSSB 19** (house committee printing) on page 8, line 4, between "referral fee" and "paid", by inserting "in connection with services provided by the individual that is".

Floor Amendment No. 4

Amend **CSSB 19** (house committee printing) as follows:

(1) On page 7, line 18, strike "Subsection (e)" and substitute "Subsections (e), (f), and (g)".

(2) On page 11, strike lines 5-8 and substitute the following:

(15) if the aggregate cost of goods or services sold under one or more written contracts described by this subdivision exceeds \$10,000 in the year covered by the report, affirmative acknowledgement of the existence of one or more contracts:

(A) for the sale of goods or services in the amount of \$2,500 or more;

(B) to which the individual, the individual's spouse, the individual's dependent child, or any business entity of which the individual, the individual's spouse, or the individual's dependent child has at least a 50 percent ownership interest is a party; and

(C) with:

(i) a governmental entity; or

(ii) a person who contracts with a governmental entity, in accordance with the contract between the person contracting with the governmental entity and the individual or entity described by Paragraph (B); and

(3) On page 11, strike lines 15-20 and substitute the following:

(e) Subsection (b)(15) does not require the disclosure of an employment contract between a school district or open-enrollment charter school and an employee of the district or school.

(f) An individual who has acknowledged the existence of contracts described by Subsection (b)(15) shall, on the request of the commission, furnish to the commission a detailed description of such contracts. The commission may request the description from an individual only after the commission receives a request for the information from another person.

(g) In this section:

(1) "Governmental entity" means the state, a political subdivision of the state, or an agency or department of the state or a political subdivision of the state.

(2) "Public benefit" includes the value of an exemption from taxation of the total appraised value of a residence homestead.

Floor Amendment No. 5

Amend **CSSB 19** (house committee printing) as follows:

(1) On page 12, line 18, following the underscored period, add "The term does not include services provided in the normal course of providing legal services."

(2) On page 12, line 20, strike "performed by the officer" and substitute "personally performed by the officer in this state".

(3) Strike page 19, line 27, through page 20, line 7, and substitute the following:

(b) The ethics counselor shall be available to members of the legislature before and during legislative sessions and shall provide oral and written opinions on potential conflicts of interest on request of a member. An opinion under this subsection is confidential unless the member requesting the opinion releases the opinion.

(4) Strike page 20, lines 22-23.

(5) Strike page 21, line 16, through page 22, line 1, and substitute the following:

Sec. 572.063. REQUIREMENTS FOR CERTAIN REFERRALS. A member of the legislature or an executive officer elected in a statewide election who is a member of the State Bar of Texas or who is licensed to practice law in another state, a federal court, or a United States territory may make or receive a referral for legal services for monetary compensation or any other benefit only if the referral complies with the rules of professional and ethical conduct of the State Bar of Texas. A member of the public may file a complaint with the State Bar of Texas against an officer who violates these rules.

Floor Amendment No. 7

Amend **CSSB 19** by striking SECTION 1.05 of the bill (page 6, line 3, through page 7, line 4), and renumbering the subsequent SECTIONS of ARTICLE 1 and fixing cross-references accordingly.

Floor Amendment No. 8

Amend **CSSB 19** (house committee printing) on page 14, line 23, of the bill, strike "searchable format to the public" and substitute "format, such as a searchable electronic spreadsheet, that is easily accessible to and searchable by a member of the public".

Floor Amendment No. 10

Amend **CSSB 19** (house committee printing) as follows:

(1) On page 27, line 7, strike "OF CERTAIN ORAL" and substitute "AND".

(2) Add the following appropriately numbered SECTIONS to ARTICLE 5 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION __. __. Chapter 306, Government Code, is amended by adding Section 306.008 to read as follows:

Sec. 306.008. PRIVILEGES.(a) A communication is confidential and subject to legislative privilege if the communication:

(1) is between a legislative assistant or employee and a member of the legislature, an officer of the legislature, legislative staff, or the lieutenant governor;

(2) is given privately; and

(3) constitutes legislative business.

(b) A communication is confidential and subject to attorney-client privilege if the communication:

(1) is between a legislative attorney or a legislative employee working at the direction of a legislative attorney and a member of the legislature, an officer of the legislature, legislative staff, or the lieutenant governor;

(2) is given privately; and

(3) constitutes legal advice or legal services.

(c) A member of the legislature, an officer of the legislature, or the lieutenant governor may choose to disclose all or a part of a communication to which Subsection (a) or (b) applies.

SECTION __. __. Chapter 323, Government Code, is amended by adding Section 323.021 to read as follows:

Sec. 323.021. LEGISLATIVE OFFICE RECORDS. A member of the legislature, the lieutenant governor, the office of a member or the lieutenant governor, an officer of the legislature, or a legislative agency that uses a mechanism made available by the council to transmit, store, or maintain records:

(1) possesses, maintains, or controls the records for purposes of litigation;
and

(2) is the custodian of the records for purposes of Chapter 552.

Floor Amendment No. 12

Amend **CSSB 19** (house committee printing) as follows:

(1) Add the following appropriately numbered ARTICLE to the bill:

ARTICLE ____. **ELIGIBILITY FOR SERVICE RETIREMENT ANNUITIES OF CERTAIN ELECTED OFFICIALS**

SECTION __.01. Subchapter B, Chapter 814, Government Code, is amended by adding Section 814.1021 to read as follows:

Sec. 814.1021. CERTAIN ELECTED MEMBERS INELIGIBLE FOR RETIREMENT ANNUITY. (a) In this section, "qualifying felony" means any felony involving:

(1) bribery;

(2) the embezzlement, extortion, or other theft of public money;

(3) perjury;

(4) coercion of public servant or voter;

(5) tampering with governmental record;

(6) misuse of official information;

(7) conspiracy or the attempt to commit any of the above crimes; or

(8) abuse of official capacity.

(b) This section applies only to a member of the elected class of the retirement system as described by Section 812.002(a)(1) or (2).

(c) Except as provided by Subsection (d), a member is not eligible to receive a service retirement annuity for service credit in the elected class under the retirement system if the member is convicted of a qualifying felony committed while in office and arising directly from the official duties of that elected office.

(d) The retirement system shall suspend payments of an annuity to a person ineligible to receive the annuity under Subsection (c). A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (e).

(e) A member who is not eligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of the member's retirement annuity contributions, including interest earned on those contributions.

(f) Benefits payable to an alternate payee under Chapter 804 who is recognized by a domestic relations order established before September 1, 2015, are not affected by a member's ineligibility to receive a retirement annuity under Subsection (c).

(g) On conviction of a member for a qualifying felony, a court may, in the interest of justice and in the same manner as in a divorce proceeding, award half of the service retirement annuity forfeited by the member as the separate property of an innocent spouse if the annuity is partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code. The amount awarded to the innocent spouse may not be converted to community property.

(h) Ineligibility for a retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(i) The board of trustees of the retirement system shall adopt rules and procedures to implement this section.

(2) Add the following appropriately numbered SECTION to Article 6 of the bill: SECTION _____. Article 6220, Revised Statutes, is repealed.

(3) Add the following appropriately numbered SECTION to Article 7 of the bill: SECTION _____. (a) Section 814.1021, Government Code, as added by this Act, applies only to a member of the Employees Retirement System of Texas who is or was a member of the state legislature or holds or has held a statewide elected office and, on or after the effective date of this Act, commits an offense that is a qualifying felony as defined by that section. A person who commits a qualifying felony before the effective date of this Act is subject to the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

(b) For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(4) Renumber the ARTICLES and SECTIONS of the bill as appropriate.

Floor Amendment No. 13

Amend **CSSB 19** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 572.005, Government Code, is amended to read as follows:

Sec. 572.005. DETERMINATION OF SUBSTANTIAL INTEREST. (a) An individual has a substantial interest in a business entity if the individual or the individual's spouse:

(1) owns or controls, directly or indirectly, an interest of at least five percent in the business entity, including the right to share in profits, proceeds, or capital gains, or an ownership interest that a reasonably prudent individual could foresee could result in any financial benefit to the individual or the individual's spouse [has a controlling interest in the business entity];

[(2) owns more than 10 percent of the voting interest in the business entity;]

(2) [(3)] owns more than \$25,000 of the fair market value of the business entity;

[(4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the business entity;]

(3) [(5)] is a member of the board of directors or other governing board of the business entity;

(4) [(6)] serves as an elected officer of the business entity; or

(5) [(7)] is an employee of the business entity.

(b) An individual has a substantial interest in real property if the individual or the individual's spouse has an equitable or legal ownership interest with a fair market value of \$25,000 or more.

Floor Amendment No. 15

Amend **CSSB 19** (house committee report) as follows:

(1) Add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 39.06, Penal Code, is amended by amending Subsection (e) and adding Subsection (g) to read as follows:

(e) Except as provided by Subsection (f) or (g), an offense under this section is a felony of the third degree.

(g) If the commission of an offense under this section results in a net pecuniary gain to the person committing the offense, the offense is:

(1) a felony of the third degree if the net pecuniary gain is less than \$100,000;

(2) a felony of the second degree if the net pecuniary gain is \$100,000 or more but less than \$200,000; or

(3) a felony of the first degree if the net pecuniary gain is \$200,000 or more.

SECTION _____. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

Floor Amendment No. 17

Amend **CSSB 19** (house committee report) as follows:

(1) On page 27, line 4, between "LEGISLATURE" and the underlined period, insert ", GOVERNOR, OR STATE ELECTED OFFICIAL".

(2) On page 27, line 4, between "legislature" and "convicted", insert ", the governor, or a state elected official".

(3) On page 27, line 5, between "member's" and "office", insert ", the governor's, or the official's".

Floor Amendment No. 21

Amend **CSSB 19** (house committee printing) as follows:

(1) On page 7, line 18, strike "Subsection (e)" and substitute "Subsections (e) and (f)".

(2) On page 11, between lines 20 and 21, insert the following:

(f) For a revolving charge account with a balance carried for 90 or more days, the individual must report the category of the amount of the highest balance owed during any period for which a balance was owed for longer than 90 days. An individual is not required by Subsection (b)(5) to report a liability incurred under a revolving charge account if the individual pays in full the entire amount owed at least as frequently as every 90 days.

Floor Amendment No. 22

Amend **CSSB 19** (house committee printing) on page 9, line 20, by striking "50 percent or more" and substituting "more than five percent [~~50 percent or more~~]".

Floor Amendment No. 24

Amend **CSSB 19** (house committee report) as follows:

(1) On page 27, line 21, between "CAPITOL" and the underlined period, insert "AND CERTAIN DISTRICT OFFICES".

(2) On page 28, line 19, between "capitol" and "is", insert "or the district office of a member of the legislature".

(3) On page 28, line 27, between "capitol" and "has", insert "or the district office of a member of the legislature".

Floor Amendment No. 25

Amend **CSSB 19** (house committee report), on page 7, between lines 16 and 17, by inserting the following:

(c) A financial statement filed electronically under Subsection (b) may not be considered untimely filed if the commission does not receive the statement before the applicable deadline as a result of a malfunction of the electronic filing system.

Floor Amendment No. 26

Amend **CSSB 19** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION __. __. Section 572.051(a), Government Code, is amended to read as follows:

(a) A state officer or employee may ~~[should]~~ not:

(1) accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct;

(2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;

(3) accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer's or employee's official powers or performed the officer's or employee's official duties in favor of another.

Floor Amendment No. 30

Amend **CSSB 19** (house committee printing) as follows:

(1) On page 14, line 12, strike "and".

(2) On page 14, line 15, strike ":" and substitute "; and".

(3) On page 14, between lines 15 and 16, insert the following:

(3) the person filing the amended report also submits electronically a signed affidavit stating that the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

Floor Amendment No. 32

Amend **CSSB 19** (house committee report) on page 12, lines 26-27, by striking "has the meaning assigned by Section 251.001, Election Code" and substituting "means a campaign contribution or an officeholder contribution, as those terms are defined in Section 251.001, Election Code, that is not made with the intent of incurring a monetary gain".

Floor Amendment No. 1 on Third Reading

Amend **SB 19** on third reading as follows:

(1) In SECTION 5.01 of the bill, in amended Section 306.002, Government Code, strike "to members of the legislature and the lieutenant governor" and substitute "made in the state capitol".

(2) In SECTION 5.02 of the bill, in the heading to added Section 306.0041, Government Code, strike "AND CERTAIN DISTRICT OFFICES".

(3) In SECTION 5.02 of the bill, in added Section 306.0041, Government Code, strike "or the district office of a member of the legislature" each time the phrase appears.

(4) In SECTION 5.02 of the bill, in added Section 306.0041(b), Government Code, strike "with a member of the legislature or the lieutenant governor" each time the phrase appears.

(5) In SECTION 5.02 of the bill, strike added Section 306.0041(c), Government Code, and substitute the following:

(c) A party to a protected oral communication while in the state capitol has a civil cause of action against a person who:

(1) intercepts, attempts to intercept, or employs or obtains another to intercept or attempt to intercept the communication, or uses or divulges information that the person knows or reasonably should know was obtained by interception of the communication; and

(2) does not disclose or falsely discloses on request that the person was intercepting a protected oral communication.

(6) In SECTION 5.02 of the bill, add the following appropriately lettered subsection to added Section 306.0041, Government Code:

() Subsection (c) does not require a law enforcement officer to disclose the interception of a communication that is otherwise lawfully obtained.

The amendments were read.

Senator V. Taylor moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 19** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators V. Taylor, Chair; Birdwell, Huffman, Watson, and Creighton.

SENATE BILL 1630 WITH HOUSE AMENDMENTS

Senator Whitmire called **SB 1630** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 1630** (house committee printing) as follows:

(1) On page 4, line 17, strike "and".

(2) On page 4, line 20, strike ":" and substitute ";".

(3) On page 4, between lines 20 and 21, insert the following:

(3) include sufficient mechanisms to divert at least:

(A) 30 juveniles from commitment to secure facilities operated by the department for the state fiscal year beginning September 1, 2015; and

(B) 150 juveniles from commitment to secure facilities operated by the department for the state fiscal year beginning September 1, 2016; and

(4) for the state fiscal year beginning September 1, 2017, and each subsequent state fiscal year, include any savings that are generated by the decreases in the population of the secure facilities operated by the department under Subtitle C that exceed the cost of implementing the plan.

(4) On page 5, between lines 14 and 15, insert the following:

(i) The regionalization plan developed under this section must be finalized not later than August 31, 2016.

(j) For the state fiscal years beginning September 1, 2015, and September 1, 2016, the legislature shall appropriate funds necessary to develop and initiate the implementation of the regionalization plan. Funds appropriated for this purpose may not be offset by projected savings generated by the decreases in the population of the secure facilities operated by the department under Subtitle C. This subsection and Subsection (i) expire September 1, 2017.

(5) On page 7, between lines 9 and 10, insert the following:

(e) The department may not adversely impact the state aid for a juvenile board or a juvenile probation department that does not enter into a contract to serve youth from other counties, or does not act as a regional facility.

(f) A juvenile board or juvenile probation department may not be required to accept a child for commitment to a post-adjudication correctional facility, unless the child is subject to an order issued by a juvenile court served by that board or department.

Floor Amendment No. 2

Amend **SB 1630** (house committee printing) as follows:

(1) On page 3, lines 22-24, strike "community, as documented in a validated needs assessment conducted by the juvenile probation department serving the court." and substitute "community. The court should consider the findings of a validated risk and needs assessment and the findings of any other appropriate professional assessment available to the court."

(2) On page 4, strike lines 4-6 and substitute the following:

(b) The department shall consult with juvenile probation departments in developing a regionalization plan, including the identification of:

(1) post-adjudication facility capacity that may be dedicated to support the plan; and

(2) resources needed to implement the plan.

(3) On page 4, line 9, between "counties," and "or", insert "halfway houses,".

(4) On page 5, line 1, strike "developed regional model" and substitute "regionalization plan".

(5) On page 5, line 24, strike "may" and substitute "shall".

(6) On page 6, lines 1-2, strike "probation or parole, or otherwise released under supervision" and substitute "parole, or discharged from the department".

(7) On page 6, between lines 7 and 8, insert the following:

(e) The department or any local probation department may not use or contract with a facility that was constructed or previously used for the confinement of adult offenders, or a facility that resembles a facility used for the confinement of adult offenders.

(8) On page 6, line 21, between "initiate" and "the", insert "and support".

(9) On page 7, line 10, strike "Section 261.101(e), Human Resources Code, is" and substitute "Sections 261.101(a) and (e), Human Resources Code, are".

(10) On page 7, between lines 11 and 12, insert the following:

(a) The independent ombudsman shall:

(1) review the procedures established by the board and evaluate the delivery of services to children to ensure that the rights of children are fully observed;

(2) review complaints filed with the independent ombudsman concerning the actions of the department and investigate each complaint in which it appears that a child may be in need of assistance from the independent ombudsman;

(3) conduct investigations of complaints, other than complaints alleging criminal behavior, if the office determines that:

(A) a child committed to the department or the child's family may be in need of assistance from the office; or

(B) a systemic issue in the department's provision of services is raised by a complaint;

(4) review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by the department, whether public or private, to ensure that the rights of children are fully observed;

(5) provide assistance to a child or family who the independent ombudsman determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child;

(6) review court orders as necessary to fulfill its duties;

(7) recommend changes in any procedure relating to the treatment of children committed to the department;

(8) make appropriate referrals under any of the duties and powers listed in this subsection;

(9) supervise assistants who are serving as advocates in their representation of children committed to the department in internal administrative and disciplinary hearings;

(10) review reports received by the department relating to complaints regarding juvenile probation programs, services, or facilities and analyze the data contained in the reports to identify trends in complaints; ~~and~~

(11) report a possible standards violation by a local juvenile probation department to the appropriate division of the department; and

(12) immediately report the findings of any investigation related to the operation of a post-adjudication correctional facility in a county to the chief juvenile probation officer and the juvenile board of the county.

Floor Amendment No. 3

Amend **SB 1630** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 221.003, Human Resources Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Any risk and needs assessment instrument or process that is provided or approved by the department for a juvenile probation department to use under Subsection (b) must be a validated instrument or process.

Floor Amendment No. 4

Amend **SB 1630** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 202.010, Human Resources Code, is amended to read as follows:

Sec. 202.010. SUNSET PROVISION. The Texas Juvenile Justice Board and the Texas Juvenile Justice Department are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2021 [~~2017~~].

Floor Amendment No. 5

Amend **SB 1630** (house committee printing) as follows:

On page ____, line ____, insert the following new SECTIONS and renumber remaining sections as appropriate:

SECTION _____. Section 51.02(2), Family Code, is amended to read as follows:

(2) "Child" means a person who is:

(A) ten years of age or older and under 18 [~~17~~] years of age; or

(B) eighteen [~~seventeen~~] years of age or older and under 20 [~~18~~] years of age who is:

(i) alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 18 [~~17~~] years of age; and

(ii) under the jurisdiction of a juvenile court.

SECTION _____. Section 8.02, Penal Code, is amended by amending subsection (b) and adding subsections (b-1) and (b-2) to read as follows:

(b) Unless the juvenile court waives jurisdiction under Section 54.02, Family Code, and certifies the individual for criminal prosecution or the juvenile court has previously waived jurisdiction under that section and certified the individual for criminal prosecution, a person may not be prosecuted for or convicted of any offense committed before reaching 18 [~~17~~] years of age except an offense described by Subsections (a)(1)-(5).

(b-1) Notwithstanding any other provision of law, any criminal offense that requires as an element of the offense that the person not be a child applies only to persons 18 years of age or older.

(b-2) Notwithstanding any other provision of law, once invoked, a juvenile court retains jurisdiction over a child until:

(1) the child's 19th birthday; or

(2) the child's 20th birthday if the child receives a determinate sentence.

SECTION _____. On page 7, line 21 strike "by Section 54.04(d), Family Code" and substitute "by Sections 51.02(2) and 54.04(d), Family Code, and Sections 8.07(b), (b-1) and (b-2), Penal Code".

Floor Amendment No. 1 on Third Reading

Amend **SB 1630** on third reading, in amended Section 261.101(e), Human Resources Code, as follows:

- (1) In subsection (e), strike "are limited to" and substitute "include"
- (2) In added Subdivision (2), strike "and" and substitute the following:
(3) any other residential facility that, pursuant to the order of a juvenile court, accepts children adjudicated for conduct indicating a need for supervision or delinquent conduct; and
- (3) Strike added Subdivision (3) and substitute the following:
(4) the investigation of complaints alleging a violation of the rights of the children committed to a facility described by Subdivision (2) or (3).

Floor Amendment No. 2 on Third Reading

Amend **SB 1630** on third reading as follows:

(1) In the recital to the SECTION of the Wu 2nd Reading Amendment that amends Section 8.02, Penal Code, by striking "Section 8.02" and substituting "Section 8.07".

(2) In the SECTION of the bill that has the effective date of the bill, strike "This Act takes effect September 1, 2015" and substitute the following:

(a) Except as provided by subsection (b) of this section, this Act takes effect September 1, 2015.

(b) The SECTIONS of this bill added by the Wu 2nd Reading Amendment that amend Section 51.02(2), Family Code, and Section 8.07, Penal Code, take effect September 1, 2017, only if the 85th Legislature, Regular Session, 2017, appropriates funds to the Texas Juvenile Justice Department in the General Appropriations Act to implement the change in law. If the 85th Legislature, Regular Session, 2017, fails to make the appropriation, those sections do not take effect.

The amendments were read.

Senator Whitmire moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1630** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Huffman, Hinojosa, Eltife, and Nelson.

SENATE BILL 9 WITH HOUSE AMENDMENTS

Senator Hancock called **SB 9** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 9** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to limitations on the rate of growth of appropriations for certain categories of spending.

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

SECTION 1. Chapter 316, Government Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. ADDITIONAL LIMIT ON GROWTH OF APPROPRIATIONS
FROM STATE FUNDS

Sec. 316.0101. LIMIT. In a state fiscal biennium, the rate of growth of appropriations from all sources of revenue other than the federal government may not exceed a rate determined as provided under Section 316.0102(a) for each of the following categories of spending:

- (1) transportation;
- (2) public primary and secondary education;
- (3) higher education;
- (4) health care;
- (5) public safety and corrections; and
- (6) other general government.

Sec. 316.0102. DUTIES OF LEGISLATIVE BUDGET BOARD. (a) Before the Legislative Budget Board transmits the budget for the next state fiscal biennium as prescribed by Section 322.008(c), the board shall establish a limit on the rate of growth of appropriations from all sources of revenue other than the federal government for each spending category described by Section 316.0101 for that biennium, as compared to the previous state fiscal biennium, by subtracting one from the product of:

(1) the sum of one and the estimated rate of growth in the population served by expenditures in that spending category during the biennium for which appropriations are made; and

(2) the sum of one and the estimated rate of inflation in a representative set of goods and services for which appropriations are made for that spending category during the biennium.

(b) The board shall determine the rates described by Subsection (a) using information available from any source the board considers reliable.

(c) Except as provided by Subsection (d) and subject to Subsection (g), the board shall establish for the next state fiscal biennium a limit on the amount of appropriations from all sources of revenue other than the federal government for each spending category described by Section 316.0101 by multiplying the amount of appropriations for each spending category for the then current state fiscal biennium by the sum of one and the limit on the rate of growth of appropriations for that spending category determined by the board under Subsection (a).

(d) If the rate determined under Subsection (a) for any spending category described by Section 316.0101 is a negative number, the amount of appropriations from all sources of revenue other than the federal government for that spending category available for the next state fiscal biennium is the same as the amount of those appropriations for the then current state fiscal biennium.

(e) To ensure compliance with this subchapter, the board may not transmit in any form to the governor or the legislature the budget as prescribed by Section 322.008(c) or the general appropriations bill as prescribed by Section 322.008(d) until the board adopts the limit on the rate of growth of appropriations from all sources of revenue other than the federal government for that biennium for each spending category described by Section 316.0101.

(f) In the absence of an action by the board to adopt the limits required under this subchapter, the amount of appropriations from all sources of revenue other than the federal government for each spending category described by Section 316.0101 available for the next state fiscal biennium is the same as the amount of those appropriations for the current state fiscal biennium.

(g) Notwithstanding any other law, for purposes of calculations used to establish, in regard to a spending category described by Section 316.0101, the limit on the rate of growth under Subsection (a) and the limit on the amount of appropriations as provided under Subsection (c), if the legislature by law exempts an appropriation from the application of this subchapter for the next state fiscal biennium, the board shall exclude then current or previous appropriations that, as determined by the board, are of a nature similar to the exempted appropriation as if those similar appropriations also had been exempted by law.

Sec. 316.0103. PUBLICATION. Before the Legislative Budget Board approves the items of information required by Section 316.0102, the board shall publish in the Texas Register the proposed items of information and a description of the methodology and sources used in the calculations.

Sec. 316.0104. PUBLIC HEARING. Not later than December 1 of each even-numbered year, the Legislative Budget Board shall hold a public hearing to solicit testimony regarding the proposed items of information and the methodology used in making the calculations required by Section 316.0102.

Sec. 316.0105. LIMIT ON BUDGET RECOMMENDATIONS. Unless authorized by majority vote of the members of the Legislative Budget Board from each house, the board's budget recommendations relating to appropriations from all sources of revenue other than the federal government for each spending category described by Section 316.0101 may not exceed the limit adopted by the board under Section 316.0102.

Sec. 316.0106. INCLUSION IN BUDGET RECOMMENDATIONS. The Legislative Budget Board shall include in its budget recommendations the proposed limit of appropriations from all sources of revenue other than the federal government for each spending category described by Section 316.0101.

Sec. 316.0107. EFFECT OF LIMIT; ENFORCEMENT. (a) The proposed limit on appropriations from all sources of revenue other than the federal government for each spending category described by Section 316.0101 is binding on the legislature with respect to those appropriations for the next state fiscal biennium unless the

legislature adopts a resolution raising the proposed limit that is approved by a record vote of a majority of the members of each house of the legislature. The resolution must find that an emergency exists, identify the nature of the emergency, and specify the amount authorized. The excess authorized under this subsection may not exceed the amount specified in the resolution.

(b) The rules of the house of representatives and senate shall provide for enforcement of Subsection (a).

SECTION 2. The changes in law made by this Act apply only, as applicable, in relation to appropriations made for the state fiscal biennium beginning September 1, 2017, and subsequent state fiscal bienniums. Appropriations for the state fiscal biennium that begins September 1, 2015, are governed by the law in effect at the time those appropriations were made, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

Floor Amendment No. 3

Amend **CSSB 9** (house committee report) as follows:

(1) On page 1, line 7, between "ADDITIONAL" and "LIMIT", insert "PROPOSED".

(2) On page 1, strike lines 9-13 and substitute the following:

Sec. 316.0101. SPENDING CATEGORIES. The spending categories for which the Legislative Budget Board shall establish a proposed limit on the rate of growth of appropriations from all sources of revenue other than the federal government in a state fiscal biennium are as follows:

(3) On page 1, line 23, between "a" and "limit", insert "proposed".

(4) On page 2, line 16, between "a" and "limit", insert "proposed".

(5) On page 2, line 20, between "the" and "limit", insert "proposed".

(6) On page 2, line 25, between "the" and "amount", insert "board shall recommend that the".

(7) On page 2, line 27, strike "is" and substitute "be".

(8) On page 3, line 7, between "the" and "limit", insert "proposed".

(9) Strike page 3, lines 10-16, and substitute the following:

(f) Notwithstanding any other law, for purposes of

(10) On page 3, line 18, between "the" and "limit", insert "proposed".

(11) On page 3, line 19, between "the" and "limit", insert "proposed".

(12) Strike page 4, line 9, through page 5, line 6, and substitute the following:

Sec. 316.0105. INCLUSION IN BUDGET RECOMMENDATIONS. The Legislative Budget Board shall include in its budget recommendations the proposed limit of appropriations from all sources of revenue other than the federal government for each spending category described by Section 316.0101.

Sec. 316.0106. REPORT ON PROPOSED LIMITS. Not later than January 1 of each odd-numbered year, the Legislative Budget Board shall issue a report containing the proposed limit of appropriations from all sources of revenue other than the federal government for each spending category described by Section 316.0101 to the appropriate standing committees of the house of representatives and the senate. The board shall publish the report on the board's Internet website.

Floor Amendment No. 5

Amend **CSSB 9** (house committee printing) on page 1 of the bill by striking lines 15-19 and substituting the following:

- (2) higher education;
- (3) health care;
- (4) public safety and corrections; and
- (5) other general government.

The amendments were read.

Senator Hancock moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 9** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hancock, Chair; Nichols, L. Taylor, Kolkhorst, and Uresti.

SENATE BILL 776 WITH HOUSE AMENDMENT

Senator Fraser called **SB 776** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 776** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the operations of a municipally owned utility or municipal power agency; providing authority to issue bonds.

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

SECTION 1. Section 37.051, Utilities Code, is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) A municipally owned utility or a municipal power agency created under Chapter 163 may not directly or indirectly construct, install, or extend a transmission facility outside of the municipal boundaries of the municipality that owns the municipally owned utility, or the power agency's boundaries, which for the purposes of this subsection consist of the municipal boundaries of the participating public entities, unless the municipally owned utility or power agency first obtains from the commission, through the application process provided by Section 37.053, a certificate that states that the public convenience and necessity requires or will require the transmission facility. Section 37.056 applies to an application under this subsection. This subsection does not apply to a transmission facility placed in service after September 1, 2015, that is developed to interconnect a new natural gas generation

facility to the ERCOT transmission grid and for which, on or before January 1, 2015, a municipally owned utility was contractually obligated to purchase at least 190 megawatts of capacity.

(h) The commission shall adopt rules as necessary to provide exemptions to the application of Subsection (g) that are similar to the exemptions to the application of this section to an electric utility, including exemptions for:

(1) upgrades to an existing transmission line that do not require any additional land, right-of-way, easement, or other property not owned by the municipally owned utility; and

(2) the construction, installation, or extension of a transmission facility that is entirely located not more than 10 miles outside of a municipally owned utility's certificated service area that occurs before September 1, 2021.

(i) The commission, not later than the 185th day after the date the application is filed, shall approve an application filed under Subsection (g) for a facility that is to be constructed under an interconnection agreement appended to an offer of settlement approved in a final order of the Federal Energy Regulatory Commission that was issued in Docket No. TX11-01-001 on or before December 31, 2014, directing physical connection between the ERCOT and SERC regions under Sections 210, 211, and 212 of the Federal Power Act (16 U.S.C. Sections 824i, 824j, and 824k). In approving the application, the commission may prescribe reasonable conditions to protect the public interest that are consistent with the final order of the Federal Energy Regulatory Commission.

SECTION 2. Subchapter A, Chapter 35, Utilities Code, is amended by adding Section 35.009 to read as follows:

Sec. 35.009. AMOUNTS PAID IN LIEU OF AD VALOREM TAXES FOR CERTAIN FACILITIES. A municipally owned utility that is required to apply for a certificate of public convenience and necessity to construct, install, or extend a transmission facility within ERCOT under Chapter 37 is entitled to recover, through the utility's wholesale transmission rate, reasonable payments made to a taxing entity in lieu of ad valorem taxes on that transmission facility, provided that:

(1) the utility enters into a written agreement with the governing body of the taxing entity related to the payments;

(2) the amount paid is the same as the amount the utility would have to pay to the taxing entity on that transmission facility if the facility were subject to ad valorem taxation;

(3) the governing body of the taxing entity is not the governing body of the utility; and

(4) the utility provides the commission with a copy of the written agreement and any other information the commission considers necessary in relation to the agreement.

SECTION 3. Chapter 163, Utilities Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. ALTERNATE GOVERNANCE FOR CERTAIN MUNICIPAL POWER AGENCIES

Sec. 163.071. DEFINITIONS. In this subchapter:

(1) "Agency" means a municipal power agency for which concurrent ordinances are adopted under Section 163.073.

(2) "Bond" includes a note, but does not include a nonnegotiable purchase money note issued under Section 163.067 or 163.087.

(3) "Concurrent ordinance" means an ordinance or order adopted under this subchapter by all of the participating public entities of an agency.

(4) "Obligations" means revenue bonds or notes.

Sec. 163.072. CONSTRUCTION. This subchapter shall be liberally construed to carry out its purpose.

Sec. 163.073. APPLICABILITY; ALTERNATE GOVERNANCE. (a) This subchapter applies to a municipal power agency created by two or more public entities under Subchapter C or a predecessor statute, including an agency re-created under Section 163.055 or a predecessor statute.

(b) The participating public entities of a municipal power agency may by concurrent ordinance elect to apply this subchapter to the agency as an alternative to Subchapter C.

(c) Concurrent ordinances described by this section must, as adopted by each public entity:

(1) contain identical provisions; and

(2) state that the public entity has elected that the agency shall, on and after the date designated in the ordinance, be governed by the provisions of this subchapter.

Sec. 163.074. CONFLICTS WITH OTHER LAW. This subchapter prevails to the extent of a conflict between this subchapter and any other law, including:

(1) a law regulating the affairs of a municipal corporation; or

(2) a home-rule charter provision.

Sec. 163.075. NATURE OF AGENCY. (a) An agency is a:

(1) separate municipal corporation;

(2) political subdivision of this state; and

(3) political entity and corporate body.

(b) An agency may not impose a tax but has all the other powers relating to municipally owned utilities and provided by law to a municipality that owns a public utility.

Sec. 163.076. ADDITION OR REMOVAL OF PUBLIC ENTITIES. (a) The public entities that created or re-created an agency may by concurrent ordinances:

(1) add a new public entity as a participating public entity in the agency; or

(2) remove a public entity from participation in the agency.

(b) Concurrent ordinances described by this section must, as adopted by each public entity:

(1) contain identical provisions;

(2) define the boundaries of the agency to include the territory within the boundaries of each participating public entity;

(3) designate the name of the agency; and

(4) designate the number, place, terms, and manner of appointment of directors, as provided by Section 163.078.

(c) The public entities may not add or remove a public entity if the addition or removal will impair an agency obligation.

Sec. 163.077. ELECTION FOR ADDITION OF PUBLIC ENTITY. (a) Public entities may not adopt concurrent ordinances under Section 163.076 adding a participating public entity unless the addition has been approved by a majority of the qualified voters of the additional public entity at an election called and held for that purpose.

(b) Notice of an election under this section shall be given in accordance with Section 1251.003, Government Code. The election shall be called and held in accordance with:

- (1) the Election Code;
- (2) Chapter 1251, Government Code; and
- (3) this subchapter.

Sec. 163.078. BOARD OF DIRECTORS. (a) The agency shall be governed by a board of directors.

(b) The board is responsible for the management, operation, and control of the property belonging to the agency.

(c) The board may by resolution delegate management or operational authority to an officer, employee, or committee of the agency, except that the delegation may not include legislative functions, including the sale or purchase of agency properties, the exercise of the power of eminent domain, the adoption or amendment of budgets and rates, or the issuance of debt. The board may repeal a resolution delegating management or operational authority:

(1) if the board is composed of six or more directors, by the affirmative vote of six directors, including the affirmative vote of at least one director appointed by each participating public entity; or

(2) if the board is composed of fewer than six directors, by the affirmative vote of at least one director appointed by each participating public entity.

(d) The board must include at least four directors. Each director must be appointed by place by the governing bodies of the participating public entities. Each participating public entity is entitled to appoint at least one director.

(e) Directors must serve staggered terms. Successor directors are appointed in the same manner as the original appointees.

(f) To qualify to serve as a director, when the person takes the constitutional oath of office, the person must be:

(1) a qualified voter and reside in the boundaries of the appointing public entity;

(2) an employee, officer, or member of the governing body of the appointing public entity; or

(3) a retail electric customer of the appointing public entity.

(g) Except as provided by Subsections (h) and (i), an employee, officer, or member of the governing body of a participating public entity serving as a director may not have a personal interest in a contract executed by the agency other than as an employee, officer, or member of the governing body of the public entity.

(h) An employee, officer, or member of the governing body of a participating public entity serving as a director is considered to be a local public official for the purposes of Chapter 171, Local Government Code.

(i) An agency and a participating public entity are considered to be political subdivisions for the purposes of Section 131.903, Local Government Code.

(j) Directors serve without compensation. A director who is an employee, officer, or member of the governing body of a participating public entity may continue to receive from the public entity the compensation associated with the office or employment.

(k) A director serves at the discretion of the appointing public entity. The governing body of a public entity that appoints a director may remove the director from office at any time with or without cause. The governing body shall promptly appoint a new director to serve the remainder of the unexpired term of the removed director.

Sec. 163.079. SEPARATE BOARDS OF DIRECTORS. (a) The public entities that created or re-created an agency may amend the creating concurrent ordinances to provide for the agency to be governed by one board of directors for the agency's generation system and another board of directors for the agency's transmission system.

(b) The concurrent ordinances as amended must contain identical provisions.

(c) Section 163.078 applies to the separate boards and to the directors of the separate boards, except that:

(1) there is no minimum number of directors for a board established under this section;

(2) each participating public entity is not entitled to appoint a director to each board of an agency; and

(3) the repeal of a resolution under Section 163.078(c) does not require approval by at least one director appointed by each participating public entity.

(d) Separate boards established under this section are not required to have the same number of directors.

Sec. 163.080. POWERS. (a) An agency may not engage in any utility business other than:

(1) the generation and sale or exchange of electric energy to:

(A) a participating public entity; or

(B) a private entity that owns jointly with the agency an electric generating facility in this state; or

(2) the provision of wholesale transmission service under Chapter 35.

(b) The agency may:

(1) perform any act necessary to the full exercise of the agency's powers;

(2) enter into a contract, lease, or agreement with or accept a grant or loan

from a:

(A) department or agency of the United States;

(B) department, agency, or political subdivision of this state; or

(C) public or private person;

(3) use the uniform system of accounts prescribed for utilities and licenses by the Federal Energy Regulatory Commission; and

(4) adopt rules to govern the operation of the agency and its employees, facilities, and service.

(c) The agency may sell, lease, convey, or otherwise dispose of any right, interest, or property of the agency, including its electric facilities. A sale, lease, conveyance, or other disposition having a value of more than \$10 million shall require prior approval of each participating public entity, unless the public entities have agreed otherwise by written contract or the property was purchased by the agency for mining purposes.

Sec. 163.081. CONSTRUCTION CONTRACTS. (a) Except as provided by Subsection (c), an agency may award a contract for construction of an improvement that involves the expenditure of more than \$20,000 only on the basis of competitive bids.

(b) The agency shall publish notice of intent to receive bids once a week for two consecutive weeks in a newspaper of general circulation in this state. The first publication must appear before the 14th day before the date bids are to be received.

(c) An entity that has joint ownership of the improvement to be constructed or that is an agent of a joint owner shall award a contract using the entity's contracting procedures.

Sec. 163.082. SALE OR EXCHANGE OF ELECTRIC ENERGY. (a) An agency may participate through appropriate contracts in power pooling and power exchange agreements with other entities through direct or indirect system interconnections.

(b) An entity that participates with an agency under this section may:

- (1) purchase electric energy from the agency;
- (2) sell or dispose of electric energy to the agency; or
- (3) exchange electric energy with the agency.

(c) An entity payment for electric energy purchased from the agency is an operating expense of the entity's electric system.

(d) An agency contract to sell or exchange electric energy may require the purchaser to pay for the electric energy regardless of whether the electric energy is produced or delivered.

Sec. 163.083. RATES AND CHARGES. (a) An agency may establish and maintain rates and charges for electric power and energy the agency delivers, transmits, or exchanges. The rates and charges must:

- (1) be reasonable and in accordance with prudent utility practices;
- (2) be based on periodic cost of service studies and subject to modification, unless such a basis for rates and charges is waived by the purchaser by contract; and
- (3) be developed to recover the agency's cost of producing and transmitting the electric power and energy, as applicable, which cost must include the amortization of capital investment.

(b) Notwithstanding Subsection (a), this state reserves its power to regulate an agency's rates and charges for electric energy supplied by the agency's facilities.

(c) Until obligations issued under this chapter have been paid and discharged, with all interest on the obligations, interest on unpaid interest installments on the obligations, and other connected and incurred costs or expenses, this state pledges to and agrees with the purchasers and successive holders of the obligations that it will not:

(1) limit or alter the power of an agency to establish and collect rates and charges under this section sufficient to pay:

(A) necessary operational and maintenance expenses;

(B) interest and principal on obligations issued by the agency;

(C) sinking funds and reserve fund payments; and

(D) other charges necessary to fulfill the terms of any agreement; or

(2) take any action that will impair the rights or remedies of the holders of the obligations.

Sec. 163.084. REVENUE BONDS. (a) The agency may issue revenue bonds to accomplish the purposes of the agency.

(b) The agency may pledge to the payment of the obligations the revenues of all or part of its electric facilities, including facilities acquired after the obligations are issued. However, operating and maintenance expenses, including salaries and labor, materials, and repairs of electric facilities necessary to render efficient service, constitute a first lien on and charge against the pledged revenue.

(c) The agency may set aside from the proceeds from the sale of the obligations amounts for payment into the interest and sinking fund and reserve fund, and for interest and operating expenses during construction and development, as specified in the proceedings authorizing the obligations.

(d) Obligation proceeds may be invested, pending their use, in securities, interest-bearing certificates, or time deposits as specified in the authorizing proceedings.

(e) Agency obligations are authorized investments for:

(1) a bank;

(2) a savings bank;

(3) a trust company;

(4) a savings and loan association; and

(5) an insurance company.

(f) The obligations, when accompanied by all appurtenant, unmatured coupons and to the extent of the lesser of their face value or market value, are eligible to secure the deposit of public funds of this state, a political subdivision of this state, and any other political corporation of this state.

Sec. 163.085. REFUNDING BONDS. The agency may issue refunding bonds.

Sec. 163.086. ISSUANCE, FORM, AND PROVISIONS OF BONDS.

(a) Agency bonds that are payable from agency revenues or anticipated bond proceeds and the records relating to their issuance must be submitted to the attorney general for examination before delivery.

(b) The bonds:

(1) must mature serially or otherwise not more than 50 years after the date of issuance;

(2) may be made redeemable before maturity at the time and at the price or prices set by the agency; and

(3) may be sold at public or private sale under the terms and for the price the agency determines to be in the best interest of the agency.

(c) The bonds must be signed by the presiding officer or assistant presiding officer of the agency, be attested by the secretary, and bear the seal of the agency. The signatures may be printed on the bonds if authorized by the agency, and the seal may be impressed or printed on the bonds. The agency may adopt or use for any purpose the signature of an individual who has been an officer of the agency, regardless of whether the individual has ceased to be an officer at the time the bonds are delivered to the purchaser.

Sec. 163.087. NONNEGOTIABLE PURCHASE MONEY NOTES. (a) The agency may issue nonnegotiable purchase money notes to acquire land or fuel resources.

(b) Nonnegotiable purchase money notes are:

(1) payable in installments;

(2) secured by the property acquired with the notes or other collateral the agency substitutes; and

(3) not a security or agency obligation.

(c) Nonnegotiable purchase money notes may be further secured by a promise to issue bonds or bond anticipation notes to pay the purchase money notes.

Sec. 163.088. BOND ANTICIPATION NOTES. (a) The agency may issue bond anticipation notes:

(1) for any purpose for which the agency may issue bonds; or

(2) to refund previously issued bond anticipation notes or nonnegotiable purchase money notes.

(b) Bond anticipation notes are subject to the limitations and conditions prescribed by this subchapter for bonds.

(c) The agency may contract with purchasers of bond anticipation notes that the proceeds of one or more series of bonds will be used to pay or refund the notes.

Sec. 163.089. PUBLIC SECURITIES. (a) It is a public purpose for a public entity that has participated in the creation of an agency to pay costs of planning, acquisition, construction, ownership, operation, and maintenance of electric facilities.

(b) A public entity may issue public securities, as defined by Section 1201.002(2), Government Code, including bonds, notes, or other forms of indebtedness, in the principal amount approved by the governing body of the public entity, for the purpose of financing electric facilities or improvements to electric facilities to be owned or operated by the agency or otherwise in furtherance of a purpose described by this section.

(c) A public entity and an agency may agree in a contract, or by other official action of the public entity and agency, to terms and conditions governing the use by the agency of the proceeds of the public securities issued by a public entity for a purpose described by this section.

(d) A contract or other official action described by Subsection (c) may include provisions with respect to, and conclusively establish sufficient consideration for, the use of the proceeds. The consideration may include the right to:

(1) use the financed facilities or portions of the facilities;

(2) receive output from the financed facilities; or

(3) receive an ownership interest in the financed facilities upon the dissolution of the agency or an undivided interest in the financed facilities at the time a public entity funds facility improvements.

(e) A contract or other official action described by Subsection (c) may contain other terms and extend for any period on which all of the parties agree.

(f) A public security issued for the purposes described by this section may include:

(1) debt obligations issued in accordance with Chapter 1207, 1331, 1371, 1431, or 1502, Government Code, or Chapter 271, Local Government Code; or

(2) other types or forms of debt that the public entity is authorized to issue.

(g) Each participating public entity may exercise any power of an issuer under Chapter 1371, Government Code.

Sec. 163.090. DISSOLUTION. (a) The participating public entities of an agency may by concurrent ordinance dissolve the agency.

(b) Concurrent ordinances dissolving an agency must:

(1) contain identical provisions;

(2) state that the agency will be dissolved upon the winding up of agency affairs;

(3) direct the board or boards of the agency to wind up the business and affairs of the agency and to inform the participating public entities by resolution when the winding up of the business and affairs of the agency is complete; and

(4) state the date on which the dissolution takes effect, provided that the date provides sufficient time for the board or boards of the agency to wind up agency affairs.

(c) The participating public entities may not dissolve an agency if the dissolution will impair the rights or remedies of holders of obligations issued by the agency.

(d) The dissolved agency continues to exist to:

(1) satisfy existing liabilities or obligations;

(2) collect, distribute, or liquidate its assets; and

(3) take any other action required to adjust and wind up its business and affairs.

(e) The assets of the dissolved agency that remain after all liabilities or obligations of the agency have been satisfied shall be distributed to the public entities that created the agency. The public entities shall establish the method of distribution by agreement.

(f) An agreement between a public entity and an agency entered into before September 1, 2015, regarding the distribution of the agency's assets after dissolution is enforceable according to the terms of the agreement, regardless of a provision to the contrary in this subchapter.

SECTION 4. The changes in law made by this Act apply only to a transmission facility for which construction began on or after the effective date of this Act.

SECTION 5. This Act takes effect September 1, 2015.

The amendment was read.

Senator Fraser moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 776** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Fraser, Chair; Ellis, Nichols, Hancock, and Estes.

SENATE BILL 1071 WITH HOUSE AMENDMENT

Senator Hinojosa called **SB 1071** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1071** (house committee report) by striking page 1, lines 5 through 18, and substituting the following:

SECTION 1. Article 43.141, Code of Criminal Procedure, is amended by adding Subsections (b-1) and (b-2) and amending Subsection (c) to read as follows:

(b-1) Not later than the second day after the date on which the convicting court enters an order setting the execution date, a copy of the order must be provided to:

(1) the attorney who represented the condemned person in the most recently concluded stage of a state or federal postconviction proceeding; and

(2) the office of capital writs established under Subchapter B, Chapter 78, Government Code.

(b-2) The exclusive remedy for a failure to comply with Subsection (b-1) is the resetting of the execution date under this article.

(c) An [The first] execution date may not be earlier than the 91st day after the date the convicting court enters the order setting the execution date. [A subsequent execution date may not be earlier than the 31st day after the date the convicting court enters the order setting the execution date.]

The amendment was read.

Senator Hinojosa moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1071** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Whitmire, Huffman, Burton, and Perry.

SENATE BILL 1305 WITH HOUSE AMENDMENT

Senator Menéndez called **SB 1305** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1305** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED**AN ACT**

relating to the creation of a rural veterans mental health initiative within the mental health intervention program for veterans.

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

SECTION 1. Section 1001.202, Health and Safety Code, as added by Chapter 352 (H.B. 2392), Acts of the 83rd Legislature, Regular Session, 2013, and amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1001.202. GENERAL POWERS AND DUTIES. (a) The department shall develop a mental health intervention program for veterans. The program must include:

- (1) peer-to-peer counseling;
- (2) access to licensed mental health professionals for volunteer coordinators and peers;
- (3) training approved by the department for peers;
- (4) technical assistance for volunteer coordinators and peers;
- (5) grants to regional and local organizations providing services under this subchapter;
- (6) recruitment, retention, and screening of community-based therapists;
- (7) suicide prevention training for volunteer coordinators and peers; and
- (8) veteran jail diversion services, including veterans courts.

(a-2) As part of the mental health intervention program for veterans, the department shall develop a rural veterans mental health initiative.

(b) The department shall solicit and ensure that specialized training is provided to persons who are peers and who want to provide peer-to-peer counseling or other peer-to-peer services under the program.

(c) The executive commissioner may adopt rules necessary to implement this subchapter.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator Menéndez moved to concur in the House amendment to **SB 1305**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1831 WITH HOUSE AMENDMENT

Senator Menéndez called **SB 1831** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1831** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the designation of a portion of State Highway 151 as the Specialist Dane Balcon Memorial Bridge.

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

SECTION 1. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.105 to read as follows:

Sec. 225.105. SPECIALIST DANE BALCON MEMORIAL BRIDGE. (a) The State Highway 151 bridge at Westover Hills in Bexar County is designated as the Specialist Dane Balcon Memorial Bridge.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Specialist Dane Balcon Memorial Bridge and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

Senator Menéndez moved to concur in the House amendment to **SB 1831**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 200 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 200** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 200** (house committee report) as follows:

(1) On page 2, line 17, between "agency" and "subject", insert "and entity".

(2) On page 3, strike lines 5 and 6 and substitute the following:

(1) all functions of each state agency and entity subject to abolition under Section 531.0202(b) that remained with the agency or entity

(3) Strike page 7, line 18, through page 8, line 2, and substitute the following:

(6) the State Health Services Council; and

(7) the Texas Council on Autism and Pervasive Developmental Disorders.

(b) The following state agency and entity are abolished on a date that is within the period prescribed by Section 531.02001(2), that is specified in the transition plan required under Section 531.0204 for the abolition of the state agency or entity, and that occurs after all of the state agency's or entity's functions have been transferred to the commission in accordance with Sections 531.0201 and 531.02011:

- (1) the Department of Aging and Disability Services; and
- (2) the Office for the Prevention of Developmental Disabilities.
- (4) On page 14, line 12, strike "an" and substitute "a state".
- (5) On page 14, line 27, strike "agency" and substitute "state agency and entity".
- (6) On page 19, lines 22 and 23, strike "Section 531.0201 or 531.02011," and substitute "Section 531.0201,".
- (7) On page 55, line 13, strike "531.02001(1)" and substitute "531.02001(2)".
- (8) On page 60, line 13, strike "September 1, 2017" and substitute "the date specified in the transition plan required under Section 531.0204, Government Code, as added by this article".
- (9) On page 60, line 20, strike "September 1, 2017" and substitute "the date specified in the transition plan required under Section 531.0204, Government Code, as added by this article".
- (10) On page 67, line 4, between "provisions" and "amended", insert "added or".
- (11) On page 68, strike lines 4 and 5 and substitute the following appropriately numbered subdivisions:

- ☐ Section 117.0711;
- ☐ Section 117.0712;
- ☐ Section 117.072;
- ☐ Section 161.021;
- ☐ Section 161.022;
- ☐ Section 161.023;
- ☐ Section 161.024;
- ☐ Section 161.025;
- ☐ Section 161.026;
- ☐ Section 161.027;
- ☐ Section 161.028;
- ☐ Section 161.029; and
- ☐ Section 161.030.

(12) On page 68, line 9, between "provisions" and "amended", insert "added or".

(13) In SECTION 1.23(e) of the bill (page 68, lines 8-19), add the following appropriately numbered subdivisions and renumber the subdivisions of the SECTION accordingly:

- ☐ Section 161.032;
- ☐ Section 161.0711;
- ☐ Section 161.0712;

(14) Strike page 113, lines 7 through 18, and substitute the following:

(h) The term of a member serving on the Medicaid Drug Utilization Review Board on January 1, 2016, expires on February 29, 2016. Not later than March 1, 2016, the executive commissioner of the Health and Human Services Commission shall appoint the initial members to the Drug Utilization Review Board in accordance

with Section 531.0736, Government Code, as added by this article, for terms beginning March 1, 2016. In making the initial appointments and notwithstanding Section 531.0736(e), Government Code, as added by this article, the executive commissioner shall designate as close to one-half as possible of the members to serve for terms expiring March 1, 2018, and the remaining members to serve for terms expiring March 1, 2020.

(15) On page 113, line 19, strike "October 1, 2015," and substitute "February 1, 2016,".

(16) On page 113, line 25, strike "January 1, 2016," and substitute "May 1, 2016,".

(17) On page 120, line 20, strike "Section 531.051(b)" and substitute "Section 535.051(b)".

(18) On page 121, line 2, strike "Section 531.051(b)" and substitute "Section 535.051(b)".

(19) On page 132, line 3, strike "September 1, 2015," and substitute "January 1, 2016,".

(20) On page 137, line 2, strike "3.46" and substitute "3.40".

Floor Amendment No. 2

Amend **SB 200** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill as appropriate:

ARTICLE ____ . VITAL STATISTICS

SECTION ____ .01. Subchapter A, Chapter 191, Health and Safety Code, is amended by adding Section 191.0031 to read as follows:

Sec. 191.0031. CERTIFIED COPIES BY MAIL. The state registrar or a local registrar may not issue a certified copy of a record under this chapter to a person who has applied for the record by mail unless the person has provided notarized proof of identity in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission. The rules may require the issuer of the certified copy to verify the notarization using the records of the secretary of state under Section 406.012, Government Code.

SECTION ____ .02. Section 191.022, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) Each local registrar shall annually submit a self-assessment report to the state registrar. The department shall prescribe the information that must be included in the report to allow a thorough desk audit of a local registrar.

SECTION ____ .03. Chapter 191, Health and Safety Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ACCESS TO RECORDS

Sec. 191.071. CRIMINAL BACKGROUND CHECK REQUIRED. (a) A person may not access vital records maintained by the department under this chapter and may not access the department's vital records electronic registration system unless the department, or another person acting on behalf of the department, has conducted a fingerprint-based criminal background check, using state and federal databases, on the person in accordance with department policy and the person's record is satisfactory as determined under department policy.

(b) The department may adopt a policy waiving the requirement of a fingerprint-based background check for a person who previously submitted to a fingerprint-based background check as a condition of licensure by a state agency.

SECTION _____.04. Section 411.110(a), Government Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The Department of State Health Services is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person who is:

(A) an applicant for a license or certificate under the Emergency Health Care Act (Chapter 773, Health and Safety Code);

(B) an owner or manager of an applicant for an emergency medical services provider license under that Act; or

(C) the holder of a license or certificate under that Act;

(2) an applicant for a license or a license holder under Subchapter N, Chapter 431, Health and Safety Code;

(3) an applicant for a license, the owner or manager of an applicant for a massage establishment license, or a license holder under Chapter 455, Occupations Code;

(4) an applicant for employment at or current employee of:

(A) a public health hospital as defined by Section 13.033, Health and Safety Code; or

(B) the South Texas Health Care System; ~~or~~

(5) an applicant for employment at, current employee of, or person who contracts or may contract to provide goods or services with~~±~~

~~[(A) the vital statistics unit of the Department of State Health Services; or~~

~~or~~ [(B)] the Council on Sex Offender Treatment or other division or component of the Department of State Health Services that monitors sexually violent predators as described by Section 841.003(a), Health and Safety Code; or

(6) a person authorized to access vital records or the vital records electronic registration system under Chapter 191, Health and Safety Code, including an employee of or contractor for the Department of State Health Services, a local registrar, a medical professional, or a funeral director.

SECTION _____.05. In prescribing the initial requirements for local registrar self-assessment reports under Section 191.022(g), Health and Safety Code, as added by this article, the Department of State Health Services shall solicit comment from local registrars in this state.

SECTION _____.06. The Department of State Health Services shall prescribe policies necessary to implement Subchapter D, Chapter 191, Health and Safety Code, as added by this article, to take effect March 1, 2016.

Floor Amendment No. 3

Amend **SB 200** (house committee printing) as follows:

(1) On page 25, line 16, between "council" and "and to speak", insert "which may include holding meetings various geographic areas across this state, or through allowing public comment at teleconferencing centers in various geographic areas across this state".

(2) On page 83, line 19, between "input" and the underlined comma, insert "from various geographic areas across this state, either in person or through teleconferencing centers".

(3) On page 98, line 4, between "system" and the underlined comma, insert "which may be from various geographic areas across the state which may be done either in person or through teleconferencing centers".

(4) On page 108, line 8, between "proposals," and "The", insert "The location of the quarterly public meeting may rotate among different geographic areas across this state, or allow for public input through teleconferencing centers in various geographic areas across this state."

Floor Amendment No. 5

Amend **SB 200** (house committee report) as follows:

(1) On page 133, strike line 25 and renumber subsequent subdivisions of the subsection accordingly.

(2) On page 136, strike line 16 and renumber subsequent subdivisions of the SECTION accordingly.

(3) Add the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumber subsequent SECTIONS of the ARTICLE accordingly:

SECTION 2. _____. (a) Section 531.251, Government Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 531.251. TEXAS SYSTEM OF CARE FRAMEWORK [~~CONSORTIUM~~].

(a) In this section:

(1) "Minor" means an individual younger than 18 years of age.

(2) "Serious emotional disturbance" means a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interferes with or limits a person's role or ability to function in family, school, or community activities.

(3) "System of care framework" means a framework for collaboration among state agencies, minors who have a serious emotional disturbance or are at risk of developing a serious emotional disturbance, and the families of those minors that improves access to services and delivers effective community-based services that are family-driven, youth- or young adult-guided, and culturally and linguistically competent.

(b) The commission shall implement [~~form a consortium to have responsibility for and oversight over~~] a [~~state~~] system of care framework to develop local mental health systems of care in communities for minors who are receiving residential mental health services and supports or inpatient mental health hospitalization, have or are at risk of developing a serious emotional disturbance, or [~~who~~] are at risk of being removed from the minor's home and placed in a more restrictive environment to receive mental health services and supports, including an inpatient mental health

hospital, a residential treatment facility, or a facility or program operated by the Department of Family and Protective Services or an agency that is part of the juvenile justice system.

~~(c) [(a-1) The consortium must include:~~

~~[(1) representatives of the Department of State Health Services, Department of Family and Protective Services, commission's Medicaid program, Texas Education Agency, Texas Juvenile Justice Department, and Texas Correctional Office on Offenders with Medical or Mental Impairments; and~~

~~[(2) one member who is:~~

~~[(A) a youth or young adult who has a serious emotional disturbance and has received mental health services and supports; or~~

~~[(B) a family member of a youth or young adult described by Paragraph (A).]~~

~~[(a-2) The consortium may coordinate with the Children's Policy Council for the purposes of including the representation required by Subsection (a-1)(2).]~~

~~[(b) The commission [and the consortium] shall:~~

~~(1) maintain a comprehensive plan for the delivery of mental health services and supports to a minor and a minor's family using a system of care framework, including best practices in the financing, administration, governance, and delivery of those services;~~

~~(2) enter memoranda of understanding with the Department of State Health Services, the Department of Family and Protective Services, the Texas Education Agency, the Texas Juvenile Justice Department, and the Texas Correctional Office on Offenders with Medical or Mental Impairments that specify the roles and responsibilities of each agency in implementing the comprehensive plan described by Subdivision (1) [implement strategies to expand the use of system of care practices in the planning and delivery of services throughout the state];~~

~~(3) identify appropriate local, state, and federal funding sources to finance infrastructure and mental health services and supports needed to support state and local system of care framework efforts; [and]~~

~~(4) develop an evaluation system to measure cross-system performance and outcomes of state and local system of care framework efforts; and~~

~~(5) in implementing the provisions of this section, consult with stakeholders, including:~~

~~(A) minors who have or are at risk of developing a serious emotional disturbance or young adults who received mental health services and supports as a minor with or at risk of developing a serious emotional disturbance; and~~

~~(B) family members of those minors or young adults.~~

~~[(b-1) Not later than November 1 of each even-numbered year, the consortium shall submit a report to the legislature and the Council on Children and Families that contains an evaluation of the outcomes of the Texas System of Care and recommendations on strengthening state policies and practices that support local systems of care, including recommendations relating to:~~

~~[(1) methods to increase access to effective and coordinated services and supports;~~

~~[(2) methods to increase community capacity to implement local systems of care through training and technical assistance;~~

~~[(3) use of cross system performance and outcome data to make informed decisions at individual and system levels; and~~

~~[(4) strategies to maximize public and private funding at the local, state, and federal levels.]~~

(b) Section 531.255, Government Code, is amended to read as follows:

Sec. 531.255. EVALUATION. ~~[(a)]~~ The commission ~~[and the Department of State Health Services jointly]~~ shall monitor the implementation of a system of care framework under Section 531.251 and adopt rules as necessary to facilitate or adjust that implementation ~~[progress of the communities that implement a local system of care, including monitoring cost avoidance and the net savings that result from implementing a local system of care].~~

Floor Amendment No. 7

Amend **SB 200** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 2. Subchapter A, Chapter 552, Health and Safety Code, is amended by adding Section 552.0012 to read as follows:

Sec. 552.0012. STUDY REGARDING NEW LOCATION FOR AUSTIN STATE HOSPITAL. (a) The commission, in coordination with the department, the General Land Office, and the Texas Facilities Commission, shall conduct a study to determine the feasibility, costs, and benefits of transferring operation of the Austin State Hospital from the hospital's facilities as of January 1, 2015, to a new facility at a new location.

(b) The study conducted under this section must consider potential locations and facilities for the operation of the Austin State Hospital that are owned by the state and that are not owned by the state. For each potential location, the study must consider:

(1) property and facility costs, including costs associated with purchasing or leasing facilities;

(2) ease of public access by main roads and public transportation; and

(3) capacity to accommodate the complete operation of the Austin State Hospital without overcrowding or interference in the delivery of services to patients.

(c) In considering property and facility costs of a potential location for the Austin State Hospital under Subsection (b)(1), the study must assume that proceeds from the sale or lease of the Austin State Hospital's facilities as of January 1, 2015, would be used for the payment of property and facility costs of a new location.

(d) The commission, in conducting the study, shall obtain input from appropriate stakeholders and from the public at public hearings held in locations across the geographic area served by the Austin State Hospital.

(e) Not later than September 1, 2016, the commission shall compile a report containing results from the study and submit the report to:

(1) each legislative standing committee with primary jurisdiction over health and human services;

(2) the Sunset Advisory Commission; and

(3) the Legislative Budget Board.

(f) This section expires September 1, 2017.

Floor Amendment No. 11

Amend **SB 200** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 2. __. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02221 to read as follows:

Sec. 531.02221. WOMEN'S HEALTH ADVISORY COMMITTEE. (a) The executive commissioner shall establish a women's health advisory committee to provide recommendations to the commission on the consolidation of women's health programs.

(b) The executive commissioner shall appoint members to the advisory committee and ensure that a majority of the members are health care providers who:

(1) are participating in women's health programs of various sizes;

(2) are located in separate geographic areas of this state; and

(3) have experience in operating women's health programs.

(c) The executive commissioner may appoint a member not described by Subsection (b) to the women's health advisory committee who represents the women's health industry and is knowledgeable on the best practices for women's health programs.

(d) The executive commissioner shall establish the women's health advisory committee not later than October 15, 2015. This subsection expires September 1, 2016.

Floor Amendment No. 12

Amend Amendment No. 11 by Howard (84R32320) to **SB 200** as follows:

(1) On page 1, lines 24 and 25, strike "This subsection expires September 1, 2016."

(2) On page 1, after line 25, add the following appropriately lettered subsection and reletter subsections of added Section 531.02221, Government Code, and any cross references to those subsections accordingly:

() The women's health advisory committee is abolished and this section expires September 1, 2017.

Floor Amendment No. 15

Amend **SB 200** (house committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to ARTICLE 3 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 3. __. Section 98.1046(a), Health and Safety Code, is amended to read as follows:

(a) The [In consultation with the Texas Institute of Health Care Quality and Efficiency under Chapter 1002, the] department, using data submitted under Chapter 108, shall publicly report for hospitals in this state risk-adjusted outcome rates for those potentially preventable complications and potentially preventable readmissions that the department[, in consultation with the institute,] has determined to be the most effective measures of quality and efficiency.

SECTION 3. _____. Section 98.1047(a), Health and Safety Code, is amended to read as follows:

(a) The ~~[In consultation with the Texas Institute of Health Care Quality and Efficiency under Chapter 1002, the]~~ department shall study which adverse health conditions commonly occur in long-term care facilities and, of those health conditions, which are potentially preventable.

SECTION 3. _____. Section 98.1065, Health and Safety Code, is amended to read as follows:

Sec. 98.1065. STUDY OF INCENTIVES AND RECOGNITION FOR HEALTH CARE QUALITY. The department~~[, in consultation with the Texas Institute of Health Care Quality and Efficiency under Chapter 1002,]~~ shall conduct a study on developing a recognition program to recognize exemplary health care facilities for superior quality of health care and make recommendations based on that study.

(2) Strike page 130, line 9 through page 131, line 13 and renumber subsequent SECTIONS of that ARTICLE accordingly.

(3) Strike page 134, line 20 through page 135, line 2 and substitute the following:

- (7) Chapter 115; and
- (8) Chapter 1002.
- (4) On page 135, between lines 5 and 6, insert the following:
- (d) Section 848.001(7), Insurance Code, is repealed.
- (5) On page 136, line 14, strike "the board of directors of".

Floor Amendment No. 17

Amend **SB 200** as follows:

Add the appropriately numbered section below and renumber subsequent sections accordingly.

SECTION _____. (a) The Health and Human Services Commission shall develop a strategic plan to significantly reduce morbidity and mortality from chronic respiratory disease, including asthma and chronic obstructive pulmonary disease.

(b) In developing the strategic plan, the Health and Human Services Commission shall collaborate with the Department of State Health Services, including the Chronic Disease Prevention Division and may convene any necessary workgroups. The members of a workgroup may include health care providers, medical school and academic experts, nonprofit and community organizations, and other people the department determines necessary specializing in asthma and chronic obstructive pulmonary disease prevention, screening, treatment, or research.

(c) In developing the strategic plan, the Health and Human Services Commission shall:

- (1) identify barriers to effective prevention, screening, medication adherence, and treatment for asthma and chronic obstructive pulmonary disease;
- (2) identify methods to increase awareness of the risk factors and symptoms associated with asthma and chronic obstructive pulmonary disease;
- (3) identify methods to increase the use of regular evidence-based screening for asthma and chronic obstructive pulmonary disease;

(4) review current technologies and best practices for chronic respiratory disease diagnosis, management and treatment;

(5) develop methods for creating partnerships with public and private entities to increase awareness of asthma and chronic obstructive pulmonary disease;

(6) review current prevention, screening, treatment, and other related activities in this state for asthma and chronic obstructive pulmonary disease and identify areas in which the health care services provided through those activities are lacking;

(7) estimate the annual direct and indirect state health care costs attributable to asthma and chronic obstructive pulmonary disease; and

(8) make recommendations to the legislature on state policy changes and funding needed to implement the strategic plan.

(d) Not later than December 31, 2016, the Department of State Health Services shall deliver to the governor and members of the legislature the strategic plan and recommendations on goal implementation and schedule compliance related to the strategic plan developed as required by this section.

(e) This section expires January 1, 2017.

Floor Amendment No. 20

Amend **SB 200** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly.

SECTION 1. (a) The Health and Human Services Commission shall develop a strategic plan to significantly reduce morbidity and mortality from human papillomavirus-associated cancer.

(b) In developing the strategic plan, the Health and Human Services Commission shall collaborate with the Department of State Health Services and the Cancer Prevention and Research Institute of Texas and may convene any necessary workgroups. The members of a workgroup may include:

(1) health care providers specializing in human papillomavirus-associated cancer prevention, screening, treatment, or research;

(2) physicians specializing in primary care, pediatrics, or obstetrics and gynecology;

(3) mid-level health care practitioners;

(4) cancer epidemiologists;

(5) representatives of general academic teaching institutions as defined by Section 61.003, Education Code, medical and dental units as defined by Section 61.003, Education Code, and medical schools as defined by Section 61.501, Education Code;

(6) middle school, high school, or college health educators;

(7) human papillomavirus-associated cancer survivors;

(8) representatives from geographic areas or other population groups at higher risk of human papillomavirus-associated cancer;

(9) public advocates concerned with issues related to vaccine-preventable diseases;

(10) representatives of community-based and faith-based organizations involved in providing education, awareness, or support relating to human papillomavirus-associated cancer; or

(11) other people the department determines are necessary.

(c) In developing the strategic plan, the Department of State Health Services shall:

(1) identify barriers to effective prevention, screening, and treatment for human papillomavirus-associated cancer, including specific barriers affecting providers and patients;

(2) identify methods, other than a mandate, to increase the number of people vaccinated against human papillomavirus;

(3) identify methods to increase use of evidence-based screening to enhance the number of people screened regularly for human papillomavirus-associated cancer;

(4) review current technologies and best practices for human papillomavirus-associated cancer screening;

(5) review technology available to diagnose and prevent infection by human papillomavirus;

(6) develop methods for creating partnerships with public and private entities to increase awareness of human papillomavirus-associated cancer and of the importance of vaccination education and regular screening;

(7) review current prevention, screening, treatment, and related activities in this state and identify areas in which the services for those activities are lacking;

(8) estimate the annual direct and indirect state health care costs attributable to human papillomavirus-associated cancers;

(9) identify actions necessary to increase vaccination and screening rates and reduce the morbidity and mortality from human papillomavirus-associated cancer and establish a schedule for implementing those actions; and

(10) make recommendations to the legislature on policy changes and funding needed to implement the strategic plan.

(d) Not later than December 31, 2016, the Health and Human Services Commission shall deliver to the governor and members of the legislature the strategic plan and recommendations on goal implementation and schedule compliance related to the strategic plan.

(e) This section expires January 1, 2017.

SECTION 2. This Act takes effect September 1, 2015.

Floor Amendment No. 21

Amend **SB 200** (house committee report) by adding the following appropriately number SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ Section 2.15 takes effect on January 1, 2017, or no later than March 31, 2017, pursuant to instructions given in the Amended Rider: Transition of the NorthSTAR Behavioral Health Services Model, House Bill 1 (conference committee report).

Floor Amendment No. 22

Amend Amendment No. 21 by Y. Davis by striking the text of the amendment and substituting the following:

Amend **SB 200** (house committee printing) in Article 2 of the bill by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 2. __. Section 533.00255, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), for purposes of this section, the term "behavioral health services" does not include mental health and substance disorder services provided through the NorthSTAR demonstration project. This subsection expires on the later of the following dates:

(1) January 1, 2017; or

(2) the last day of the transition deadline for the cessation of the NorthSTAR Behavioral Health Services model if that deadline is extended in accordance with provisions of H.B. No. 1 (the General Appropriations Act), Acts of the 84th Legislature, Regular Session, 2015, by written approval of the Legislative Budget Board or the governor.

Floor Amendment No. 23

Amend **SB 200** by adding the following appropriately number sections and renumbering the subsequent sections accordingly;

SECTION _____. Subchapter A, Chapter 33, Human Resources Code, is amended by adding Section 33.018 to read as follows:

Sec. 33.018. SNAP ELIGIBILITY FOLLOWING CERTAIN CRIMINAL CONVICTIONS. (a) As authorized by 21 U.S.C. Section 862a(d) (1) and except as provided by this section, 21 U.S.C. Section 862a(a) (2) does not apply in determining the eligibility of any person for the supplemental nutrition assistance program.

(b) 21 U.S.C. Section 862a(a) (2) applies in determining the eligibility for the supplemental nutrition assistance program of a person who has been convicted of, and released on parole or placed on community supervision for, any felony offense that has as an element the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. Section 802, if the person violates any condition of that parole or community supervision. A person described by this subsection is ineligible for the supplemental nutrition assistance program only for a two-year period beginning on the date the person is found to have violated the condition of parole or community supervision, as authorized by 21 U.S.C. Section 862a(d) (1) (B).

(c) A person convicted of an offense described by Subsection (b) who is receiving supplemental nutrition assistance program benefits and who is convicted of a subsequent felony offense, regardless of the elements of the offense, is ineligible for the supplemental nutrition assistance program.

SECTION _____. The changes in law made by this Act apply only to a determination of eligibility of a person for supplemental nutrition assistance benefits made on or after the effective date of this Act. A determination of eligibility made before the effective date of this Act is governed by the law in effect on the date the determination was made, and the former law is continued in effect for that purpose.

Floor Amendment No. 24

Amend **SB 200** (house committee report) on page 86, between lines 13 and 14, by inserting the following appropriately lettered subsection:

()

Floor Amendment No. 25

Amendment to the Amendment No. 24 on **SB 200** (house committee report) on page 86, between lines 13 and 14, by inserting the following appropriately lettered subsection:

() The operational plan under this section may evaluate: the Delivery System Reform Incentive Payment (DSRIP) program under the Texas Health Care Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315), enhancing funding to disproportionate share hospitals in the state, Section 1332 of 42 U.S.C. Section 18052, enhancing uncompensated care pool payments to hospitals in the state under the Texas Health Care Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315), home and community-based services state plan options under Section 1915(i) of the federal Social Security Act (42 U.S.C. Section 1315), and a contingency plan in the event the commission does not obtain an extension or renewal of the uncompensated care pool provisions or any other provisions of the Texas Health Care Transformation and Quality Improvement Program Waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315).

Floor Amendment No. 26

Amend **SB 200** (house committee report) by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION 2. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02114 to read as follows:

Sec. 531.02114. DENTAL DIRECTOR. The executive commissioner shall appoint for Medicaid a dental director who is a licensed dentist under Subtitle D, Title 3, Occupations Code, and rules adopted under that subtitle by the State Board of Dental Examiners.

The amendments were read.

Senator Nelson moved to concur in the House amendments to **SB 200**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 1007 WITH HOUSE AMENDMENT
(Motion In Writing)**

Senator Eltife called **SB 1007** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1 on Third Reading

Amend **SB 1007** on third reading as follows:

(1) On page 9, line 11, strike "and" and substitute "[~~and~~"]".

(2) On page 9, line 16, strike the period and substitute the following:

; and

(4) rules relating to the standards for the development of equal and uniform appraisals for property tax purposes according to generally accepted appraisal methods and techniques.

The amendment was read.

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

The Motion In Writing was read and prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1007** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Eltife, Chair; Seliger, Creighton, West, and Nichols.

RECESS

On motion of Senator Hancock, the Senate at 3:29 p.m. recessed until 4:30 p.m. today, pending receipt of Messages from the House.

AFTER RECESS

The Senate met at 4:45 p.m. and was called to order by Senator Eltife.

CONFERENCE COMMITTEE ON SENATE BILL 752 DISCHARGED

On motion of Senator Bettencourt and by unanimous consent, the Senate conferees on **SB 752** were discharged.

Question: Shall the Senate concur in the House amendment to **SB 752**?

Senator Bettencourt moved to concur in the House amendment to **SB 752**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 2578 (Motion In Writing)

Senator Nelson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2578** and submitted a Motion In Writing that the request be granted.

The Motion In Writing was read and prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2578** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Nelson, Chair; Hinojosa, Schwertner, Birdwell, and Campbell.

SENATE BILL 313 WITH HOUSE AMENDMENTS

Senator Seliger called **SB 313** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 313** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the essential knowledge and skills of the required public school curriculum, the administration of and reports relating to assessment instruments administered to public school students, the instructional materials allotment, and proclamations for the production of instructional materials.

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

SECTION 1. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0025 to read as follows:

Sec. 28.0025. REVIEW AND MODIFICATION OF ESSENTIAL KNOWLEDGE AND SKILLS. (a) The State Board of Education shall:

(1) conduct a review of the essential knowledge and skills of each foundation curriculum subject under Section 28.002(a)(1) that were most recently revised by the board with an effective date before September 1, 2012; and

(2) modify the essential knowledge and skills of each foundation curriculum subject reviewed under Subdivision (1) to narrow the content and scope of standards and skills for the subject at each grade level in accordance with this section.

(b) In complying with this section, the State Board of Education shall consider:

(1) at each grade level for each subject reviewed under this section, the time:

(A) a teacher would require to provide comprehensive instruction on a particular standard or skill; and

(B) a typical student would require to master a particular standard or skill;

(2) whether, in light of the consideration required by Subdivision (1), each essential knowledge and skill of a subject reviewed under this section can be comprehensively taught within the number of school days required under Section 25.081, not including the number of days required for testing;

(3) the college and career readiness standards, and whether inclusion of part of those standards in the essential knowledge and skills of a subject reviewed under this section is possible; and

(4) whether an assessment instrument administered under Section 39.023 adequately assesses a particular standard or skill.

(c) In establishing or following an established timeline for reviewing and modifying the essential knowledge and skills as required under this section, the State Board of Education shall ensure that the timeline reflects a priority to first review and modify a subject for which an end-of-course assessment instrument under Section 39.023(c) is administered before a subject for which an assessment instrument under Section 39.023(a) is administered. The board shall complete the review and modification of the essential knowledge and skills at each grade level for each applicable subject as required under this section not later than September 1, 2018.

(d) Until the review and modification under this section is complete, the State Board of Education may not add to or modify the content and scope of standards and skills for any subject in the foundation curriculum under Section 28.002(a)(1) reviewed under this section unless modifications are made in accordance with this section.

(e) This section expires September 1, 2018.

SECTION 2. Section 28.008(d), Education Code, is amended to read as follows:

(d) The State Board of Education shall incorporate college readiness standards and expectations approved by the commissioner of education and the Texas Higher Education Coordinating Board under Subsection (b) into the essential knowledge and skills identified by the board under Section 28.002(c). The State Board of Education shall develop a chart that clearly indicates the alignment of the college readiness standards and expectations with the essential knowledge and skills identified by the board under Section 28.002(c).

SECTION 3. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0081 to read as follows:

Sec. 28.0081. ADMINISTRATION OF ASSESSMENT INSTRUMENT FOR DIAGNOSTIC PURPOSES. (a) Not later than April 1 of each school year, a school district, using funds appropriated to the agency and distributed by the commissioner to the district for that purpose, shall administer an assessment instrument designated by the Texas Higher Education Coordinating Board under Section 51.3062(c) to each student in the district enrolled in the 10th grade. A student's performance on the assessment instrument may only be used for diagnostic purposes, including a determination as to whether a student should be enrolled in developmental education courses. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine if it is appropriate for the student to be administered the assessment instrument required under this section.

(b) This section applies only until the State Board of Education has completed the review and modification of essential knowledge and skills of the foundation curriculum subjects required by Section 28.0025. This section expires September 1, 2018.

SECTION 4. Section 31.002, Education Code, is amended by adding Subdivision (1-b) to read as follows:

(1-b) "Proclamation" means a request for production of instructional materials issued by the State Board of Education.

SECTION 5. Sections 31.0211(a) and (d), Education Code, are amended to read as follows:

(a) A school district is entitled to an ~~[annual]~~ allotment each biennium from the state instructional materials fund for each student enrolled in the district on a date during the last year of the preceding biennium ~~[school year]~~ specified by the commissioner. The commissioner shall determine the amount of the allotment per student each biennium ~~[year]~~ on the basis of the amount of money available in the state instructional materials fund to fund the allotment. An allotment under this section shall be transferred from the state instructional materials fund to the credit of the district's instructional materials account as provided by Section 31.0212.

(d) Each biennium ~~[year]~~ a school district shall use the district's allotment under this section to purchase, in the following order:

(1) instructional materials necessary to permit the district to certify that the district has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level as required by Section 28.002; and

(2) any other instructional materials or technological equipment as determined by the district.

SECTION 6. Section 31.0212(a), Education Code, is amended to read as follows:

(a) The commissioner shall maintain an instructional materials account for each school district. In the first year of each biennium ~~[Each school year]~~, the commissioner shall deposit in the account for each district the amount of the district's instructional materials allotment under Section 31.0211.

SECTION 7. Sections 31.0215(a) and (b), Education Code, are amended to read as follows:

(a) The commissioner shall, as early as practicable during each biennium ~~[fiscal year]~~, notify each school district and open-enrollment charter school of the estimated amount to which the district or charter school will be entitled under Section 31.0211 during the next fiscal biennium ~~[year]~~.

(b) The commissioner may allow a school district or open-enrollment charter school to place an order for instructional materials before the beginning of a fiscal biennium ~~[year]~~ and to receive instructional materials before payment. The commissioner shall limit the cost of an order placed under this section to 80 percent of the estimated amount to which a school district or open-enrollment charter school is estimated to be entitled as provided by Subsection (a) and shall first credit any balance in a district or charter school instructional materials account to pay for an order placed under this section.

SECTION 8. Section 31.022, Education Code, is amended by adding Subsections (b-1), (b-2), and (b-3) and amending Subsection (f) to read as follows:

(b-1) For any state fiscal biennium, the board may only issue proclamations for instructional materials in which the total projected cost of instructional materials under the proclamations does not exceed 75 percent of the total amount used to fund the instructional materials allotment under Section 31.0211 for that biennium.

(b-2) Following the adoption of revised essential knowledge and skills for any subject, the board shall determine whether issuance of a proclamation is necessary based on the significance of the changes to the essential knowledge and skills. If the board determines a proclamation is necessary, the board shall issue:

(1) a full call for instructional materials aligned to all of the essential knowledge and skills for the subject and grade level;

(2) a supplemental call for instructional materials aligned to new or expanded essential knowledge and skills for the subject and grade level;

(3) a call for new information demonstrating alignment of current instructional materials to the revised essential knowledge and skills; or

(4) any combination of the calls described by Subdivisions (1), (2), and (3).

(b-3) In determining the disbursement of money to the available school fund and the amount of that disbursement that will be used, in accordance with Section 43.001(d), to fund the instructional materials allotment under Section 31.0211, the board must consider the cost of all instructional materials and technology requirements for that state fiscal biennium.

(f) The board shall amend any proclamation [~~request for production~~] issued for the purchase of instructional materials to conform to the instructional materials funding levels provided by the General Appropriations Act for the year of implementation and to comply with Subsection (b-1).

SECTION 9. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0239 to read as follows:

Sec. 39.0239. REQUIRED REPORT FOR CERTAIN ASSESSMENTS.

(a) Following the administration of an assessment instrument adopted or developed under Section 39.023(a), the agency shall provide a detailed report of a student's performance on the assessment instrument to:

(1) the student;

(2) the student's parent or other person standing in parental relationship; and

(3) the student's teachers.

(b) The report provided under Subsection (a) must include an analysis of a student's performance on each assessed standard or skill in the essential knowledge and skills of the subject for which the assessment instrument was administered. The analysis must indicate whether the student mastered each standard or skill assessed in the assessment instrument.

(c) The analysis under Subsection (b) must demonstrate both individual assessment results and assessment results aggregated across classes, campuses, and districts.

(d) If the commissioner contracts with a third party for the development or adoption of an assessment instrument under Section 39.023(a), the contract must require the third party to fulfill the requirements of this section.

SECTION 10. Section 43.001(d), Education Code, is amended to read as follows:

(d) Each biennium [~~year~~] the State Board of Education shall set aside an amount equal to 50 percent of the [~~annual~~] distribution for that biennium [~~year~~] from the permanent school fund to the available school fund as provided by Section 5(a), Article VII, Texas Constitution, to be placed, subject to the General Appropriations Act, in the state instructional materials fund established under Section 31.021.

SECTION 11. Section 403.093(d), Government Code, is amended to read as follows:

(d) The comptroller shall transfer from the general revenue fund to the foundation school fund an amount of money necessary to fund the foundation school program as provided by Chapter 42, Education Code. The comptroller shall make the transfers in installments as necessary to comply with Section 42.259, Education Code, and permit the Texas Education Agency, to the extent authorized by the General Appropriations Act, to make temporary transfers from the foundation school fund for payment of the instructional materials allotment under Section 31.0211, Education Code. Unless an earlier date is necessary for purposes of temporary transfers for payment of the instructional materials allotment, an ~~an~~ installment must be made not earlier than two days before the date an installment to school districts is required by Section 42.259, Education Code, and must not exceed the amount necessary for that payment and any temporary transfers for payment of the instructional materials allotment.

SECTION 12. Sections 31.101(d) and (e), Education Code, are repealed.

SECTION 13. Not later than January 1, 2016, the State Board of Education shall develop a chart as prescribed by Section 28.008(d), Education Code, as amended by this Act.

SECTION 14. The change in law made by Section 39.0239(d), Education Code, as added by this Act, applies only to a contract entered into, amended, or renewed on or after the effective date of this Act. A contract entered into, amended, or renewed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 15. This Act applies beginning with the 2015-2016 school year.

SECTION 16. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

Floor Amendment No. 1

Amend **CSSB 313** (house committee report) by striking page 3, line 18, through page 4, line 11, and renumbering remaining SECTIONS of the bill accordingly.

Floor Amendment No. 2

Amend **CSSB 313** (house committee report) on page 2, between lines 26 and 27, by inserting the following:

(c-1) The review and modification of the essential knowledge and skills for the foundation curriculum conducted by the State Board of Education under this section may not result in a need for the adoption of new instructional materials in any subject other than English language arts.

Floor Amendment No. 1 on Third Reading

Amend **SB 313** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 39.023, Education Code, is amended by adding Subsection (b-2) to read as follows:

(b-2) Notwithstanding any other provision of this section, and to the extent consistent with federal law, a student in a special education program under Subchapter A, Chapter 29, may be exempted from the administration of an assessment instrument otherwise required under this section if the student's admission, review, and dismissal committee, in consultation with the student's parent or a person standing in parental relation to the student, determines that the exemption is in the student's best interests. The student's admission, review, and dismissal committee, in consultation with the student's parent or a person standing in parental relation to the student, shall develop an individual progress plan for a student exempt from administration of an assessment instrument as provided by this subsection. The commissioner shall adopt rules as necessary to administer this subsection.

The amendments were read.

Senator Seliger moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 313** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; L. Taylor, West, Estes, and Eltife.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, May 28, 2015 - 3

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 128 Price

Honoring Shanna Peeples on her selection as National Teacher of the Year.

HCR 138 Phillips

Instructing the enrolling clerk of the house to make corrections in H.B. No. 1919.

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 2 (145 Yeas, 1 Nays, 2 Present, not voting)

HB 32 (133 Yeas, 10 Nays, 1 Present, not voting)

HB 114 (138 Yeas, 2 Nays, 3 Present, not voting)
HB 263 (145 Yeas, 0 Nays, 2 Present, not voting)
HB 281 (135 Yeas, 8 Nays, 2 Present, not voting)
HB 530 (127 Yeas, 17 Nays, 3 Present, not voting)
HB 781 (142 Yeas, 0 Nays, 2 Present, not voting)
HB 885 (145 Yeas, 0 Nays, 2 Present, not voting)
HB 1094 (144 Yeas, 0 Nays, 2 Present, not voting)
HB 1363 (145 Yeas, 0 Nays, 2 Present, not voting)
HB 1438 (132 Yeas, 9 Nays, 2 Present, not voting)
HB 1738 (141 Yeas, 1 Nays, 2 Present, not voting)
HB 1832 (144 Yeas, 0 Nays, 2 Present, not voting)
HB 1887 (136 Yeas, 8 Nays, 2 Present, not voting)
HB 1888 (136 Yeas, 7 Nays, 2 Present, not voting)
HB 1927 (143 Yeas, 0 Nays, 2 Present, not voting)
HB 2070 (144 Yeas, 1 Nays, 2 Present, not voting)
HB 2280 (143 Yeas, 1 Nays, 2 Present, not voting)
HB 2404 (145 Yeas, 0 Nays, 2 Present, not voting)
HB 2439 (146 Yeas, 1 Nays, 2 Present, not voting)
HB 2475 (139 Yeas, 5 Nays, 2 Present, not voting)
HB 2573 (140 Yeas, 2 Nays, 2 Present, not voting)
HB 2574 (142 Yeas, 3 Nays, 2 Present, not voting)
HB 2588 (129 Yeas, 11 Nays, 2 Present, not voting)
HB 2590 (143 Yeas, 0 Nays, 2 Present, not voting)
HB 2696 (135 Yeas, 6 Nays, 2 Present, not voting)
HB 3175 (137 Yeas, 6 Nays, 2 Present, not voting)
HB 3523 (142 Yeas, 1 Nays, 2 Present, not voting)
HB 3576 (120 Yeas, 23 Nays, 2 Present, not voting)
HB 3615 (129 Yeas, 15 Nays, 2 Present, not voting)
HB 3666 (139 Yeas, 5 Nays, 2 Present, not voting)
HB 3777 (143 Yeas, 1 Nays, 2 Present, not voting)
HB 4158 (142 Yeas, 1 Nays, 2 Present, not voting)

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

HB 26 (non-record vote)

House Conferees: Button - Chair/Anderson, Charles "Doc"/Ashby/Rodriguez, Eddie/Springer

HB 211 (non-record vote)

House Conferees: Rose - Chair/Alonzo/Clardy/Moody/Wu

HB 1295 (non-record vote)

House Conferees: Capriglione - Chair/Keffer/King, Phil/Moody/Parker

HB 1559 (non-record vote)

House Conferees: Parker - Chair/Aycock/Deshotel/Farney/Huberty

HB 1585 (non-record vote)

House Conferees: Paul - Chair/Faircloth/Keough/Metcalf/Romero, Jr.

HB 2019 (non-record vote)

House Conferees: Craddick - Chair/Bohac/Darby/Landgraf/Parker

HB 2645 (non-record vote)

House Conferees: Blanco - Chair/Alvarado/Fallon/Herrero/Moody

HB 2804 (non-record vote)

House Conferees: Aycock - Chair/Ashby/Darby/Dutton/King, Ken

HB 2968 (non-record vote)

House Conferees: Guillen - Chair/Bernal/Harless/Larson/Martinez Fischer

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 311

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 311** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 311** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; Eltife, L. Taylor, Uresti, and Rodriguez.

CONFERENCE COMMITTEE ON HOUSE BILL 189

Senator V. Taylor called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 189** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 189** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators V. Taylor, Chair; Huffman, Menéndez, Perry, and Kolkhorst.

SENATE BILL 632 WITH HOUSE AMENDMENT

Senator Fraser called **SB 632** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 632** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the abolishment of the Texas emerging technology fund.

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

SECTION 1. The heading to Chapter 490, Government Code, is amended to read as follows:

**CHAPTER 490. WINDING UP CONTRACTS AND STATE'S INVESTMENT
PORTFOLIO IN CONNECTION WITH AWARDS FROM TEXAS ~~[FUNDING
FOR]~~ EMERGING TECHNOLOGY FUND**

SECTION 2. Subchapter C, Chapter 490, Government Code, is amended by adding Sections 490.104 and 490.105 to read as follows:

Sec. 490.104. MANAGEMENT OF INVESTMENT PORTFOLIO; WINDING UP AND FINAL LIQUIDATION. (a) In this section, "state's emerging technology investment portfolio" means:

(1) the equity positions in the form of stock or other security the governor took, on behalf of the state, in companies that received awards under the Texas emerging technology fund; and

(2) any other investments made by the governor, on behalf of the state, in connection with an award made under the Texas emerging technology fund.

(b) The Texas Treasury Safekeeping Trust Company shall manage and wind up the state's emerging technology investment portfolio. The trust company shall wind up the portfolio in a manner that, to the extent feasible, provides for the maximum return on the state's investment. In managing those investments through procedures and subject to restrictions that the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing pertinent to each investment. The trust company may recover its reasonable and necessary costs incurred in the management of the portfolio from the earnings on the investments in the portfolio.

(c) Any realized proceeds or other earnings from the sale of stock or other investments in the state's emerging technology investment portfolio, less the amount permitted to be retained for payment of its costs for managing the portfolio as provided by Subsection (b), shall be remitted by the Texas Treasury Safekeeping Trust Company to the comptroller for deposit in the general revenue fund.

(d) The Texas Treasury Safekeeping Trust Company has any power necessary to accomplish the purposes of this section.

(e) On final liquidation of the state's emerging technology investment portfolio, the Texas Treasury Safekeeping Trust Company shall promptly notify the comptroller of that occurrence. As soon as practicable after receiving that notice, the comptroller shall verify that the final liquidation has been completed and, if the comptroller so verifies, shall certify to the governor that the final liquidation of the portfolio has been completed. The governor shall post notice of the certification on the office of the governor's Internet website.

(f) Any balance remaining in the Texas emerging technology fund on final liquidation by the Texas Treasury Safekeeping Trust Company shall be remitted to the comptroller for deposit in the general revenue fund.

Sec. 490.105. CONFIDENTIALITY OF CERTAIN INFORMATION.

(a) Except as provided by Subsection (b), information concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity that was considered for or received an award from the Texas emerging technology fund is confidential unless the individual or entity consents to disclosure of the information.

(b) The following information collected in connection with the Texas emerging technology fund is public information and may be disclosed under Chapter 552, Government Code:

(1) the name and address of an individual or entity that received an award from the fund;

(2) the amount of funding received by an award recipient;

(3) a brief description of the project funded by the award;

(4) if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that received an award from the fund; and

(5) any other information with the consent of:

(A) the governor;

(B) the lieutenant governor;

(C) the speaker of the house of representatives; and

(D) the individual or entity that received an award from the fund, if the information relates to that individual or entity.

SECTION 3. Section 490.101, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The fund may be used only for the purposes described by Section 490.104.

SECTION 4. The following laws are repealed:

(1) Sections 490.101(c), (d), (e), (f), (f-1), (g), (h), and (i), Government Code;

(2) Section 490.102, Government Code; and

(3) Subchapters A, B, D, E, F, and G, Chapter 490, Government Code.

SECTION 5. (a) The Texas emerging technology fund is continued solely for the purposes of winding up the contracts governing awards from that fund and the state's portfolio of equity positions and other investments in connection with awards from that fund in accordance with Section 490.104, Government Code, as added by this Act. The Texas emerging technology fund is abolished and Sections 490.101(a), (b), and (b-1), Government Code, are repealed when the comptroller certifies to the governor as provided by Section 490.104, Government Code, as added by this Act, that the final liquidation of the state's portfolio of equity positions and other investments by the Texas Treasury Safekeeping Trust Company has been completed.

(a-1) On or after the effective date of this Act, any unencumbered balance of the Texas emerging technology fund may be appropriated only to one or more of the following:

(1) the Texas Research Incentive Program (TRIP) under Subchapter F, Chapter 62, Education Code;

(2) the Texas research university fund, subject to Subsection (b) of this section;

(3) the Texas Enterprise Fund established under Section 481.078, Government Code; and

(4) the comptroller for the purposes of managing the state's portfolio of equity positions and other investments in connection with awards from the Texas emerging technology fund in accordance with Section 490.104, Government Code, as added by this Act.

(b) The authority of the Texas research university fund to receive the appropriation described by Subsection (a-1) of this section is contingent on passage and enactment of H.B. 1000, or similar legislation relating to state support for general academic teaching institutions in this state by the 84th Legislature, Regular Session, 2015, that renames the existing Texas competitive knowledge fund and changes the purposes for which the fund can be used.

(c) On or after the effective date of this Act, the following payments or other amounts shall be deposited to the credit of the Texas emerging technology fund to be used by the Texas Treasury Safekeeping Trust Company solely for the purposes of winding up the state's portfolio of equity positions and other investments as provided by Sections 490.101(b-1) and 490.104, Government Code, as added by this Act:

(1) any royalties, revenues, and other financial benefits realized from a project undertaken with money from the Texas emerging technology fund, as provided by a contract described by Section 490.103, Government Code;

(2) any interest or proceeds received as a result of a transaction authorized by former Section 490.101(h), Government Code;

(3) any money returned or repaid to the state by an award recipient pursuant to an agreement entered into under former Section 490.101(g), Government Code;

(4) any money derived from an interest the state retained in a capital improvement pursuant to an agreement entered into under former Section 490.101(g), Government Code; and

(5) any fund money returned by an entity that fails to perform an action guaranteed by a contract entered into under former Section 490.154 or 490.203, Government Code.

(d) The abolishment by this Act of the Texas emerging technology fund and the repeal of provisions of Chapter 490, Government Code, relating to that fund do not affect the validity of an agreement between the governor and the recipient of an award awarded under Chapter 490, or a person to be awarded money under that chapter, that is executed before September 1, 2015.

(e) Money from the Texas emerging technology fund that is encumbered because the money is awarded or otherwise obligated by agreement before September 1, 2015, but under the terms of the award or agreement will not be distributed before that date shall be distributed from the Texas emerging technology fund in accordance with the terms of the agreement, unless the award recipient and the governor agree otherwise.

(f) A regional center of innovation and commercialization established under Section 490.152, Government Code, is abolished on the effective date of this Act. Each center shall transfer to the office of the governor a copy of any meeting minutes required to be retained under Section 490.1521, Government Code, as that section existed immediately before that section's repeal by this Act, and the office shall retain the minutes for the period prescribed by that section.

(g) Except as provided by this Act, on September 1, 2015, the following powers, duties, functions, and activities performed by the office of the governor immediately before that date are transferred to the Texas Treasury Safekeeping Trust Company:

(1) all powers, duties, functions, and activities related to equity positions in the form of stock or other security the governor has taken, on behalf of the state, in companies that received awards under the Texas emerging technology fund before September 1, 2015; and

(2) all powers, duties, functions, and activities related to other investments made by the governor, on behalf of the state, in connection with an award made under the Texas emerging technology fund before September 1, 2015.

(h) Notwithstanding the repeal by this Act of provisions of Chapter 490, Government Code, those provisions of Chapter 490 are continued in effect for the limited purpose of winding up contracts governing awards from the Texas emerging technology fund and the state's portfolio of equity positions and other investments in connection with awards from that fund in accordance with Section 490.104, Government Code, as added by this Act.

SECTION 6. This Act takes effect September 1, 2015.

The amendment was read.

Senator Fraser moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 632** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Fraser, Chair; Nelson, Huffman, Zaffirini, and Estes.

SENATE BILL 1356 WITH HOUSE AMENDMENT

Senator Hinojosa called **SB 1356** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1356** (house committee printing) as follows:

(1) On page 1, line 8, strike "section," and substitute the following:

section:

(1) "Water-conserving product":

(A) means tangible personal property that:

(i) is used on private residential property and is not used for business or trade; and

(ii) when used or planted in an outdoor residential property, may result in:

(a) water conservation or groundwater retention;

(b) water table recharge; or

(c) a decrease in ambient air temperature that limits water evaporation; and

(B) includes:

(i) a soaker or drip-irrigation hose;

(ii) a moisture control for a sprinkler or irrigation system;

(iii) mulch;

(iv) a rain barrel or an alternative rain and moisture collection system; and

(v) a permeable ground cover surface that allows water to reach underground basins, aquifers, or water collection points.

(2) On page 1, line 12, between "a" and "WaterSense", insert "water-conserving product or".

The amendment was read.

Senator Hinojosa moved to concur in the House amendment to **SB 1356**.

The motion prevailed by the following vote: Yeas 20, Nays 11.

Yeas: Creighton, Ellis, Eltife, Estes, Garcia, Hinojosa, Huffman, Lucio, Menéndez, Nelson, Nichols, Rodríguez, Schwertner, Seliger, L. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Burton, Campbell, Fraser, Hall, Hancock, Huffines, Kolkhorst, Perry, V. Taylor.

CONFERENCE COMMITTEE ON HOUSE BILL 1305

Senator L. Taylor called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1305** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1305** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators L. Taylor, Chair; Campbell, Bettencourt, Lucio, and V. Taylor.

SENATE BILL 1756 WITH HOUSE AMENDMENTS

Senator V. Taylor called **SB 1756** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 1756** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter M, Chapter 521, Transportation Code, is amended by adding Section 521.276 to read as follows:

Sec. 521.276. OFFICES FOR ISSUING CERTAIN LICENSES. (a) The department is not required to issue at all driver's license offices a license with an expiration date set under Section 521.271(a-2), (a-3), or (a-4), 521.2711(c), or 521.272(c)(2).

(b) The department may designate offices to issue a license described by Subsection (a).

Floor Amendment No. 2 on Third Reading

Amend **SB 1756** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 521.001(a)(6-a), Transportation Code, is amended to read as follows:

(6-a) "Motorcycle" includes an enclosed three-wheeled passenger vehicle that:

(A) is designed to operate with three wheels in contact with the ground;

(B) ~~has a minimum unladen weight of 900 lbs.;~~

~~(C)~~ has a single, completely enclosed, occupant compartment; and

(C) ~~(D)~~ at a minimum, is equipped with:

(i) seats that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 207, 49 C.F.R. Section 571.207;

(ii) a steering wheel used to maneuver the vehicle;

(iii) a propulsion unit located in front of or behind the enclosed occupant compartment;

(iv) a seat belt for each vehicle occupant certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 209, 49 C.F.R. Section 571.209;

(v) a windshield and one or more windshield wipers certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 205, 49 C.F.R. Section 571.205, and Federal Motor Vehicle Safety Standard No. 104, 49 C.F.R. Section 571.104; ~~and~~

(vi) a vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 216, 49 C.F.R. Section 571.216, if:

(a) the unladen weight of the vehicle is more than 900 pounds;
or

(b) the unladen weight of the vehicle is not more than 900 pounds and the vehicle has a maximum speed capability of more than 40 miles per hour; and

(vii) an active tilt control system if the unladen weight of the vehicle is not more than 900 pounds and the vehicle has a maximum speed capability of 40 miles per hour or less; and

~~[(E) is produced by its manufacturer in a minimum quantity of 300 in any calendar year].~~

SECTION _____. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.4165 to read as follows:

Sec. 545.4165. OPERATION OF CERTAIN MOTORCYCLES. A person may not operate a motorcycle described by Section 521.001(a)(6-a)(C)(vii) on a public highway for which the posted speed limit is more than 45 miles per hour, except that the operator may cross an intersection with a public highway that has a posted speed limit of more than 45 miles per hour.

Floor Amendment No. 3 on Third Reading

Amend **SB 1756** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 521.001, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) The department by rule may define types of vehicles that are "motorcycles" for the purposes of this chapter, in addition to those defined under Subsection (a)(6-a). The Texas Department of Motor Vehicles by rule may define the types of vehicles that are "motorcycles" for the purposes of Chapters 501, 502, and 503. This subsection applies only to vehicles manufactured by a manufacturer licensed under Chapter 2301, Occupations Code.

SECTION _____. Section 521.085(b), Transportation Code, is amended to read as follows:

(b) Subsection (a) does not prohibit a license holder from operating a lesser type of vehicle that is:

(1) a motorcycle described by Section 521.001(a)(6-a); or

(2) a type of motorcycle defined by the department under Section 521.001(c) and designated by the department as qualifying for operation under this section.

SECTION _____. Section 680.013, Transportation Code, is amended to read as follows:

Sec. 680.013. USE OF PREFERENTIAL LANE BY MOTORCYCLE. (a) A motorcycle, including a motorcycle described by Section 521.001(a)(6-a), may be operated in a preferential lane that is not closed to all vehicular traffic.

(b) In addition to a motorcycle described by Subsection (a), the department by rule may designate a type of motorcycle defined by the department under Section 521.001(c) that may be operated in a preferential lane that is not closed to all vehicular traffic.

The amendments were read.

Senator V. Taylor moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1756** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators V. Taylor, Chair; Hall, Huffines, West, and Creighton.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, May 28, 2015 - 4

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

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

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 11 (122 Yeas, 22 Nays, 2 Present, not voting)

HB 48 (138 Yeas, 5 Nays, 2 Present, not voting)

HB 324 (147 Yeas, 0 Nays, 2 Present, not voting)

HB 870 (143 Yeas, 3 Nays, 2 Present, not voting)

HB 2131 (136 Yeas, 7 Nays, 2 Present, not voting)

HB 3311 (128 Yeas, 16 Nays, 2 Present, not voting)

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

HB 408 (non-record vote)

House Conferees: Turner, Chris - Chair/Cook/Davis, Sarah/Flynn/Rodriguez, Justin

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 724, SB 881, SB 923, SB 932, SB 1025, SB 1049, SB 1070, SB 1135, SB 1408, SB 1496, SB 1517, SB 1760, SB 1880, SCR 9, SCR 22, SCR 40, SCR 41, SJR 52.

HB 283, HB 372, HB 549, HB 830, HB 1212, HB 1217, HB 1273, HB 1309, HB 1338, HB 2182, HB 2235, HB 2265, HB 2391, HB 2498, HB 2739, HB 2789, HB 2830, HB 2921, HB 3150, HB 3618, HB 4001, HB 4097.

RECESS

On motion of Senator Whitmire, the Senate at 5:49 p.m. recessed until 6:30 p.m. today.

AFTER RECESS

The Senate met at 6:45 p.m. and was called to order by Senator Hancock.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, May 28, 2015 - 5

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

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

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 2630 (136 Yeas, 5 Nays, 3 Present, not voting)

HB 2896 (144 Yeas, 0 Nays, 2 Present, not voting)

HB 2965 (142 Yeas, 1 Nays, 2 Present, not voting)

HB 3781 (130 Yeas, 8 Nays, 2 Present, not voting)

HB 4037 (141 Yeas, 1 Nays, 2 Present, not voting)

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

HB 2123 (non-record vote)

House Conferees: King, Phil - Chair/Blanco/Frank/King, Susan/Miller, Rick

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 923 (143 Yeas, 1 Nays, 2 Present, not voting)

HB 1378 (144 Yeas, 0 Nays, 2 Present, not voting)

HB 1454 (144 Yeas, 0 Nays, 2 Present, not voting)

SB 733 (137 Yeas, 2 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

AT EASE

The Presiding Officer at 6:47 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Kolkhorst at 7:30 p.m. called the Senate to order as In Legislative Session.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, May 28, 2015 - 6

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 136 Smithee

Honoring Conquer Chiari for its efforts in behalf of those with Chiari malformation.

HCR 139 Larson

Instructing the enrolling clerk of the house to make corrections in H.B. No. 30.

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF

A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 483 (non-record vote)

House Conferees: Capriglione - Chair/Flynn/Longoria/Parker/Simpson

HB 1905 (non-record vote)

House Conferees: Springer - Chair/Bonnen, Dennis/Darby/Turner, Chris/Wray

HB 2641 (non-record vote)

House Conferees: Zerwas - Chair/Collier/Davis, Sarah/Guillen/Sheffield

HB 3615 (non-record vote)

House Conferees: Isaac - Chair/Cyrier/Howard/Rodriguez, Eddie/Springer

HB 3736 (non-record vote)

House Conferees: Davis, Sarah - Chair/Capriglione/Cook/Geren/Turner, Chris

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 523 (non-record vote)

House Conferees: Keffer - Chair/Ashby/Burns/Howard/Workman

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 200 (141 Yeas, 1 Nays, 2 Present, not voting)

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 3405

The house respectfully requests that the senate return House Bill No. 3405 to the chief clerk of the house of representatives, prevails by a unanimous vote.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

AT EASE

The Presiding Officer at 7:35 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Kolkhorst at 7:58 p.m. called the Senate to order as In Legislative Session.

CONFERENCE COMMITTEE ON HOUSE BILL 1690
(Motion In Writing)

Senator Huffman called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1690** and submitted a Motion In Writing that the request be granted.

The Motion In Writing was read and prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1690** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Huffman, Chair; Nichols, Nelson, Creighton, and Watson.

CONFERENCE COMMITTEE ON HOUSE BILL 2633
(Motion In Writing)

Senator Perry called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2633** and submitted a Motion In Writing that the request be granted.

The Motion In Writing was read and prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2633** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Perry, Chair; Creighton, Estes, Ellis, and V. Taylor.

CONFERENCE COMMITTEE ON HOUSE BILL 2968
(Motion In Writing)

Senator Menéndez called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2968** and submitted a Motion In Writing that the request be granted.

The Motion In Writing was read and prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2968** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Menéndez, Chair; Uresti, Campbell, Creighton, and Estes.

SENATE BILL 507 WITH HOUSE AMENDMENTS
(Motion In Writing)

Senator Lucio called **SB 507** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 507** as follows:

(1) On page 4, line 19, between "." and "This", insert:

"A parent or guardian of a student involved in an incident for which a complaint has been reported to the school district shall be permitted to view recordings related to the incident."

(2) Insert the following new section between Section 2 and the current Section 3 on page 4, between lines 24 and 25, and renumber the subsequent sections accordingly:

SECTION 3. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2528 to read as follows:

Sec. 42.2528. EXCESS FUNDS FOR SPECIAL EDUCATION CLASSROOM VIDEO SURVEILLANCE. (a) Notwithstanding any other provision of law, if the commissioner determines that the amount appropriated for the purposes of the Foundation School Program exceeds the amount to which school districts are entitled under this chapter, the commissioner by rule shall establish a grant program through which excess funds are awarded as grants for the purchase of video equipment for monitoring special education classrooms required under Section 29.022, including reimbursement for equipment already purchased.

(b) In awarding grants under this section, the commissioner shall give priority to districts at the maximum maintenance and operations tax rate permitted under law and to districts with maintenance and operations tax rates at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a), and lowest amounts of maintenance and operations tax revenue per weighted student.

(c) The commissioner may adopt rules to implement and administer this section.

Floor Amendment No. 2

Amend **SB 507** (house committee printing) as follows:

(1) On page 1, line 23, strike "CLASSROOMS" and substitute "SPECIAL EDUCATION SETTINGS".

(2) On page 2, strike lines 2 through 8 and substitute the following:
shall provide equipment, including a video camera, to a school in the district or a charter school campus in which a student who receives special education services in a special education setting operated by the district or charter school for at least 50 percent of the instructional day is enrolled. Each school or campus that receives equipment shall place, operate, and maintain one or more video cameras in a special education setting in which a majority of the students in regular attendance are:

(3) On page 2, line 11, strike "self-contained classroom" and substitute "special education setting".

(4) On page 2, lines 14, 15, 19, 20, 22, 24, and 26, strike "classroom" and substitute "special education setting" in each of the places it appears.

(5) On page 2, line 25, between "to" and "the parents", insert "all school or campus staff and to".

(6) On page 3, line 2, strike "six" and substitute "three".

(7) On page 3, line 5, strike "classrooms" and substitute "a special education setting".

(8) On page 3, line 20, strike "self-contained classroom" and substitute "special education setting".

(9) On page 4, line 1, strike "or".

(10) On page 4, line 2, between "peace officer," and "a school nurse", insert "a district administrator trained in de-escalation and restraint techniques as provided by commissioner rule,".

(11) On page 4, line 7, between "student" and the underlined period, insert the following:

; or

(3) appropriate agency or State Board for Educator Certification personnel or agents as part of an investigation

(12) On page 4, strike lines 8 through 22, and substitute the following:

(j) If a person described by Subsection (i)(2) or (3) who views the video recording believes that the recording documents a possible violation under Subchapter E, Chapter 261, Family Code, the person shall notify the Department of Family and Protective Services for investigation in accordance with Section 261.406, Family Code. If any person described by Subsection (i) who views the recording believes that the recording documents a possible violation of district or school policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of district or school policy may be used as part of a disciplinary action against district or school personnel and shall be released at the request of the student's parent or guardian in a legal proceeding. This subsection does not limit the access of a student's parent to a record regarding the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.

(13) On page 4, between lines 22 and 23, insert the following appropriately lettered subsection and reletter subsequent subsections accordingly:

() From funds appropriated for that purpose, the commissioner may reimburse a school district or open-enrollment charter school that installs video cameras under this section before the 2017-2018 school year for the cost of the installation.

(14) On page 4, strike lines 23 and 24 and substitute the following appropriately lettered subsection:

() The commissioner shall adopt rules to implement and administer this section, including rules regarding the special education settings to which this section applies.

(15) Strike page 4, line 25, through page 5, line 4, and substitute the following appropriately numbered SECTION:

SECTION _____. The change in law made by Section 29.022, Education Code, as added by this Act, applies beginning with the 2017-2018 school year.

The amendments were read.

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

The Motion In Writing was read and prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 507** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; L. Taylor, Garcia, Menéndez, and Bettencourt.

SENATE BILL 551 WITH HOUSE AMENDMENT
(Motion In Writing)

Senator Seliger called **SB 551** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 551** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the duty of the Water Conservation Advisory Council to submit a report and recommendations regarding water conservation in this state.

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

SECTION 1. Section 10.011, Water Code, is amended to read as follows:

Sec. 10.011. REPORT. Not later than December 1 of each even-numbered year, the council shall submit to the governor, lieutenant governor, and speaker of the house of representatives:

(1) a report on progress made in water conservation in this state; and

(2) recommendations for legislation to advance water conservation in this state, including conservation through the reduction of the amount of water lost because of evaporation.

SECTION 2. This Act takes effect September 1, 2015.

The amendment was read.

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

The Motion In Writing was read and prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 551** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; Perry, Zaffirini, Creighton, and Nichols.

SENATE BILL 1316 WITH HOUSE AMENDMENTS

Senator Watson called **SB 1316** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 1316** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the system by which an application for a low income housing tax credit is scored.

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

SECTION 1. Sections 2306.6710(b) and (f), Government Code, are amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of a resolution concerning the development that is voted on and adopted by the following, as applicable:

(i) the governing body of a municipality in which the proposed development site is to be located;

(ii) subject to Subparagraph (iii), the commissioners court of a county in which the proposed development site is to be located, if the proposed site is to be located in an area of a county that is not part of a municipality; or

(iii) the commissioners court of a county in which the proposed development site is to be located and the governing body of the applicable municipality, if the proposed site is to be located in the extraterritorial jurisdiction of a municipality;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) ~~the commitment of development funding by local political subdivisions;~~

~~(F)~~ the rent levels of the units;

(F) ~~(G)~~ the cost of the development by square foot;

(G) ~~(H)~~ the services to be provided to tenants of the development;

(H) ~~(I)~~ whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014;

(I) ~~(J)~~ quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site; and

(J) ~~(K)~~ the level of community support for the application, evaluated on the basis of a written statement from the state representative who represents the district containing the proposed development site;

(2) uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement; and

(3) encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested.

(f) In evaluating the level of community support for an application under Subsection (b)(1)(J) ~~(b)(1)(K)~~, the department shall award:

- (1) positive points for positive written statements received;
- (2) negative points for negative written statements received; and
- (3) zero points for neutral statements received.

SECTION 2. Section 2306.6725, Government Code, is amended by amending Subsection (a) and adding Subsections (e), (f), and (g) to read as follows:

(a) In allocating low income housing tax credits, the department shall score each application using a point system based on criteria adopted by the department that are consistent with the department's housing goals, including criteria addressing the ability of the proposed project to:

- (1) provide quality social support services to residents;
- (2) demonstrate community and neighborhood support as defined by the qualified allocation plan;
- (3) consistent with sound underwriting practices and when economically feasible, serve individuals and families of extremely low income by leveraging private and state and federal resources, including federal HOPE VI grants received through the United States Department of Housing and Urban Development;
- (4) serve traditionally underserved areas;
- (5) demonstrate support from local political subdivisions based on the subdivisions' commitment of development funding;
- (6) rehabilitate or perform an adaptive reuse of a historic building as part of the development;
- (7) remain affordable to qualified tenants for an extended, economically feasible period; and

(8) ~~(6)~~ comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C.

(e) The department may not award points for the rehabilitation or the adaptive reuse of a historic building under Subsection (a)(6) to more than two projects in the same application cycle.

(f) In establishing for the 2016 and 2017 qualified allocation plans the scoring criterion related to the commitment of development funding by local political subdivisions, the department shall significantly reduce for each place regardless of population the amount in funding, per low income unit, that is required for a proposed project to receive the applicable number of points for that criterion. After the reduction, the amount of required funding may be a de minimis amount.

(g) Subsection (f) and this subsection expire September 1, 2019.

SECTION 3. The change in law made by this Act applies only to an application for a low income housing tax credit that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

Floor Amendment No. 1

Amend **CSSB 1316** (house committee printing) as follows:

(1) On page 3, line 23, strike "Subsections (e), (f), and (g)" and substitute "Subsections (e) and (f)".

(2) Strike added Section 2306.6725(a)(6), Government Code (page 4, lines 16 and 17), and renumber subsequent subdivisions and cross-references to those subdivisions accordingly.

(3) Strike added Section 2306.6725(e), Government Code (page 4, lines 24 through 27), and reletter subsequent subsections and cross-references to those subsections accordingly.

Floor Amendment No. 2

Amend **CSSB 1316** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2306.6714(a), Government Code, is amended to read as follows:

(a) The department shall set aside for eligible at-risk developments not less than 20 ~~15~~ percent of the housing tax credits available for allocation in the calendar year. One-fourth of the housing tax credits set aside under this section shall be made available only with respect to developments that receive the benefit of a subsidy under the Section 8 Housing Assistance Payments Program administered by the United States Department of Housing and Urban Development as specified by 24 C.F.R. Part 886.

The amendments were read.

Senator Watson moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1316** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Watson, Chair; Bettencourt, Menéndez, Eltife, and Seliger.

SENATE BILL 1338 WITH HOUSE AMENDMENT
(Motion In Writing)

Senator Perry called **SB 1338** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1338** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to an exemption from length limitations for certain vehicles or combinations of vehicles used to transport harvest machines.

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

SECTION 1. Section 622.902, Transportation Code, is amended to read as follows:

Sec. 622.902. **LENGTH EXCEPTIONS.** The length limitations provided by Sections 621.203 to 621.205 do not apply to:

(1) machinery used exclusively for drilling water wells, including machinery that is itself a unit or that is a unit mounted on a conventional vehicle or chassis;

(2) a vehicle owned or operated by a public, private, or volunteer fire department;

(3) a vehicle or combination of vehicles operated exclusively in the territory of a municipality or to a combination of vehicles operated by a municipality in a suburb adjoining the municipality in which the municipality has been using the equipment or similar equipment in connection with an established service to the suburb;

(4) a truck-tractor, truck-tractor combination, or truck-trailer combination exclusively transporting machinery, materials, and equipment used in the construction, operation, and maintenance of facilities, including pipelines, that are used for the discovery, production, and processing of natural gas or petroleum;

(5) a drive-away saddlemount vehicle transporter combination or a drive-away saddlemount with fullmount vehicle transporter combination, as defined by 23 C.F.R. Part 658 or its successor, if:

(A) the overall length of the combination is not longer than 97 feet; and

(B) the combination does not have more than three saddlemounted vehicles if the combination does not include more than one fullmount vehicle;

(6) the combination of a tow truck and another vehicle or vehicle combination if:

(A) the other vehicle or vehicle combination cannot be normally or safely driven or was abandoned on a highway; and

(B) the tow truck is towing the other vehicle or vehicle combination directly to the nearest authorized place of repair, terminal, or destination of unloading;

[✗]

(7) a vehicle or combination of vehicles used to transport a harvest machine [~~combine~~] that is used in farm custom harvesting operations on a farm if the overall length of the vehicle or combination is not longer than[=

~~[(A)] 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~~

(8) a truck-tractor operated in combination with a semitrailer and trailer or semitrailer and semitrailer if:

(A) the combination is used to transport a harvest machine that is used in farm custom harvesting operations on a farm;

(B) the overall length of the combination, excluding the length of the truck-tractor, is not longer than 81-1/2 feet; and

(C) the combination [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.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The amendment was read.

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

The Motion In Writing was read and prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1338** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Perry, Chair; Nichols, Kolkhorst, Huffines, and Hinojosa.

SENATE BILL 1727 WITH HOUSE AMENDMENT (Motion In Writing)

Senator Creighton called **SB 1727** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1727** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the duties of the Title IV-D agency regarding the establishment, collection, and enforcement of child support.

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

SECTION 1. Section 108.001(d), Family Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(d) In a Title IV-D case, the Title IV-D agency may transmit the record and information specified by Subsection (a) directly to the vital statistics unit~~[, with a copy to the clerk of the court on request by the clerk]~~. The record and information are not required to be certified if transmitted by the Title IV-D agency under this subsection.

SECTION 2. Section 231.101(d), Family Code, is amended to read as follows:

(d) The Title IV-D agency may review a support order at any time on a showing of a material and substantial change in circumstances, taking into consideration the best interests of the child. If the Title IV-D agency determines that the primary care and possession of the child has changed, the Title IV-D agency may file a petition for modification under Chapter 156.

SECTION 3. Section 231.108(a), Family Code, is amended to read as follows:

(a) Except as provided by Subsection (c), all files and records of services provided by the Title IV-D agency under this title [chapter], including information concerning a custodial parent, a noncustodial parent, a child, or ~~[and]~~ an alleged or presumed father, are confidential.

SECTION 4. Section 231.302(b), Family Code, is amended to read as follows:

(b) A government agency, private company, institution, or other entity shall provide the information requested under Subsection (a) directly to the Title IV-D agency not later than the seventh day after the request to obtain information is received, without the requirement of payment of a fee for the information, and shall, subject to safeguards on privacy and information security, provide the information in the most efficient and expeditious manner available, including electronic or automated transfer and interface. Any individual or entity disclosing information under this section in response to a request from a Title IV-D agency may not be held liable in any civil action or proceeding to any person for the disclosure of information under this subsection.

SECTION 5. Section 233.013(b), Family Code, is amended to read as follows:

(b) If grounds exist for modification of ~~[it has been three years since]~~ a child support order under Subchapter E, Chapter 156 ~~[was rendered or last modified and the amount of the child support award under the order differs by either 20 percent or \$100 from the amount that would be awarded under the child support guidelines]~~, the Title IV-D agency may file an appropriate child support review order, including an order that has the effect of modifying an existing court or administrative order for child support without the necessity of filing a motion to modify.

SECTION 6. Section 233.028(c), Family Code, is amended to read as follows:

(c) If a party denies parentage of a child whose parentage has not previously been acknowledged or adjudicated, the Title IV-D agency shall order parentage testing and give each party notice of the time and place of testing. If either party fails or refuses to participate in administrative parentage testing, the Title IV-D agency may file a child support review order resolving the question of parentage against that party. The court shall confirm the child support review order as a temporary or final order of the court only after an opportunity for parentage testing has been provided.

SECTION 7. Section 234.101(1), Family Code, is amended to read as follows:

(1) "Employee" means an individual who is an employee within the meaning of Chapter 24 of the Internal Revenue Code of 1986 (26 U.S.C. Section 3401(c)) or an independent contractor as defined by the Internal Revenue Service. The term does not include an employee of a state agency performing intelligence or counterintelligence functions if the head of the agency has determined that reporting employee information under this subchapter could endanger the safety of the employee or compromise an ongoing investigation or intelligence activity.

SECTION 8. (a) Section 108.001, Family Code, as amended by this Act, applies only to the transmission of a record and information to the vital statistics unit of the Department of State Health Services on or after the effective date of this Act.

(b) Section 231.302, Family Code, as amended by this Act, applies only to a request for information that is received on or after the effective date of this Act.

SECTION 9. This Act takes effect September 1, 2015.

The amendment was read.

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

The Motion In Writing was read and prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1727** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Creighton, Chair; West, L. Taylor, Schwertner, and Lucio.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 910

Senator Estes submitted the following Conference Committee Report:

Austin, Texas
May 28, 2015

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 910** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ESTES
HUFFINES
HUFFMAN

PHILLIPS
P. KING
GEREN

ELTIFE

On the part of the Senate

NEVÁREZ

On the part of the House

The Conference Committee Report on **HB 910** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 100**

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas

May 28, 2015

Honorable Dan Patrick

President of the Senate

Honorable Joe Straus

Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 100** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SELIGER

ELTIFE

KOLKHORST

WATSON

WEST

On the part of the Senate

ZERWAS

ASHBY

CLARDY

HOWARD

OTTO

On the part of the House

The Conference Committee Report on **HB 100** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 202**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas

May 28, 2015

Honorable Dan Patrick

President of the Senate

Honorable Joe Straus

Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 202** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON

PRICE

SCHWERTNER
BIRDWELL
HINOJOSA
CAMPBELL
On the part of the Senate

BURKETT
HARLESS
KUEMPEL
RAYMOND
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the transfer of certain occupational regulatory programs and the deregulation of certain activities and occupations.

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

ARTICLE 1. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS
DEPARTMENT OF LICENSING AND REGULATION

PART 1. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2017

SECTION 1.001. Subchapter D, Chapter 51, Occupations Code, is amended by adding Section 51.2031 to read as follows:

Sec. 51.2031. RULES REGARDING HEALTH-RELATED PROGRAMS; PROVISION OF INFORMATION. (a) This section applies only to the regulation of the following professions by the department:

- (1) athletic trainers;
- (2) dietitians;
- (3) hearing instrument fitters and dispensers;
- (4) midwives;
- (5) orthotists and prosthetists; and
- (6) speech-language pathologists and audiologists.

(a-1) The commission may not adopt a new rule relating to the scope of practice of or a health-related standard of care for a profession to which this section applies unless the rule has been proposed by the advisory board established for that profession. The commission shall adopt rules prescribing the procedure by which an advisory board may propose rules described by this subsection.

(a-2) For each rule proposed under Subsection (a-1), the commission shall either adopt the rule as proposed or return the rule to the advisory board for revision. The commission retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process. This subsection and Subsection (a-1) expire September 1, 2019.

(b) The commission shall adopt rules clearly specifying the manner in which the department and commission will solicit input from, and on request provide information to, an advisory board established for a profession to which this section applies regarding the general investigative, enforcement, or disciplinary procedures of the department or commission.

SECTION 1.002. Section 203.002, Occupations Code, is amended by adding Subdivision (1) and amending Subdivisions (3), (4), (4-a), (6), and (9) to read as follows:

(1) "Advisory board" means the Midwives Advisory Board.

(3) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of state health services~~].

(4) "Department" means the Texas Department of Licensing and Regulation [~~State Health Services~~].

(4-a) "Executive director" [~~commissioner~~] means the executive director of the department [~~commissioner of the Health and Human Services Commission~~].

(6) "Midwife" means a person who practices midwifery and has met the licensing requirements established by this chapter and commission [~~midwifery board~~] rules.

(9) "Normal" means, as applied to pregnancy, labor, delivery, the postpartum period, and the newborn period, and as defined by commission [~~midwifery board~~] rule, circumstances under which a midwife has determined that a client is at a low risk of developing complications.

SECTION 1.003. Section 203.005, Occupations Code, is amended to read as follows:

Sec. 203.005. EFFECT ON LOCAL ORDINANCES. This chapter does not prohibit a municipality from adopting a local ordinance or rule to regulate the practice of midwifery in the municipality if the ordinance or rule is compatible with and at least as strict as this chapter and commission [~~midwifery board~~] rules.

SECTION 1.004. The heading to Subchapter B, Chapter 203, Occupations Code, is amended to read as follows:

SUBCHAPTER B. MIDWIVES ADVISORY [~~MIDWIFERY~~] BOARD

SECTION 1.005. Section 203.052, Occupations Code, is amended to read as follows:

Sec. 203.052. ADVISORY [~~APPOINTMENT OF MIDWIFERY~~] BOARD MEMBERSHIP. (a) The advisory [~~midwifery~~] board consists of nine members appointed by the presiding officer of the commission with the approval of the commission as follows:

(1) five licensed midwife members each of whom has at least three years' experience in the practice of midwifery;

(2) one physician member who is certified by a national professional organization of physicians that certifies obstetricians and gynecologists;

(3) one physician member who is certified by a national professional organization of physicians that certifies family practitioners or pediatricians; and

(4) two members who represent the public and who are not practicing or trained in a health care profession, one of whom is a parent with at least one child born with the assistance of a midwife.

(b) Appointments to the advisory [~~midwifery~~] board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 1.006. Subchapter B, Chapter 203, Occupations Code, is amended by adding Section 203.0521 to read as follows:

Sec. 203.0521. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.007. Section 203.055, Occupations Code, is amended to read as follows:

Sec. 203.055. TERMS; VACANCIES. (a) Members of the advisory [midwifery] board serve for staggered terms of six years. The terms of three members expire on January 31 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

SECTION 1.008. Section 203.056, Occupations Code, is amended to read as follows:

Sec. 203.056. PRESIDING OFFICER [OFFICERS]. The presiding officer of the commission [commissioner] shall designate a public member of the advisory [midwifery] board to serve as the presiding officer of the advisory [midwifery] board to serve for a term of one year [in that capacity at the pleasure of the commissioner]. The presiding officer of the advisory board may vote on any matter before the advisory board [midwifery board shall elect one of the other members of the midwifery board as vice presiding officer].

SECTION 1.009. Section 203.059, Occupations Code, is amended to read as follows:

Sec. 203.059. MEETINGS. ~~(a)~~ The advisory [midwifery] board shall meet at [least semiannually.

~~[(b) The midwifery board shall meet at other times at]~~ the call of the presiding officer of the commission or the executive director [midwifery board or the commissioner].

SECTION 1.010. The heading to Subchapter D, Chapter 203, Occupations Code, is amended to read as follows:

SUBCHAPTER D. POWERS AND DUTIES ~~[OF MIDWIFERY BOARD, EXECUTIVE COMMISSIONER, AND DEPARTMENT]~~

SECTION 1.011. The heading to Section 203.151, Occupations Code, is amended to read as follows:

Sec. 203.151. GENERAL POWERS AND DUTIES [RULEMAKING AUTHORITY OF MIDWIFERY BOARD].

SECTION 1.012. Section 203.151, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The executive director shall administer and enforce this chapter.

~~(a-1) The commission [Subject to the approval of the executive commissioner, the midwifery board]~~ shall:

~~(1) [adopt substantive and procedural rules necessary for the licensing of midwives;~~

~~[(2)]~~ adopt rules prescribing the standards for the practice of midwifery in this state, including standards for:

(A) the delineation of findings that preclude a woman or newborn from being classified as having a normal pregnancy, labor, delivery, postpartum period, or newborn period; and

(B) administration of oxygen by a midwife to a mother or newborn;

(2) [(3)] adopt rules prescribing:

(A) the type of courses and number of hours required to meet the basic midwifery education course and continuing midwifery education course requirements; and

(B) minimum standards for the approval and revocation of approval of:

(i) basic midwifery education courses and continuing midwifery education courses; and

(ii) instructors or facilities used in basic midwifery education courses and continuing midwifery education courses; and

~~(3) [(4) adopt rules prescribing a procedure for reporting and processing complaints relating to the practice of midwifery in this state;~~

~~[(5) adopt and implement substantive and procedural rules as necessary to discipline midwives determined to be in violation of this chapter or otherwise a threat to the public health and safety;~~

~~[(6)] adopt rules as necessary to establish eligibility for reciprocity for initial licensing under this chapter[; and~~

~~[(7) adopt other rules necessary to implement a duty imposed on the executive commissioner or the department under this chapter].~~

(a-2) The department shall:

(1) implement rules governing:

(A) basic midwifery education courses and continuing midwifery education courses; and

(B) approval of instructors or facilities used in offering basic midwifery education courses and continuing midwifery education courses;

(2) prepare and distribute basic midwifery information and instructor manuals;

(3) enter into agreements necessary to carry out this chapter; and

(4) establish a program for licensure as a midwife as prescribed by commission rules.

SECTION 1.013. Section 203.152(b), Occupations Code, is amended to read as follows:

(b) The commission ~~[midwifery board]~~ may not set a fee for an amount less than the amount of that fee on September 1, 1993.

SECTION 1.014. Sections 203.153(a) and (c), Occupations Code, are amended to read as follows:

(a) The ~~[Subject to the approval of the]~~ department~~[- the midwifery board]~~ shall issue basic information manuals for the practice of midwifery~~[- The midwifery board shall approve the basic information manuals]~~ and instructor manuals that may be used in basic midwifery education courses.

(c) A basic information manual must include information about:

(1) the knowledge necessary to practice as a midwife;

(2) the basic education and continuing education requirements for a midwife;

(3) the legal requirements and procedures relating to midwifery;

(4) the standards of practice as a midwife; and

(5) other information or procedures required by the commission ~~[midwifery board]~~ or the department.

SECTION 1.015. Section 203.154, Occupations Code, is amended to read as follows:

Sec. 203.154. REPORTS ON MIDWIFERY. (a) ~~[(e)]~~ The department ~~[midwifery board]~~ shall prepare and publish reports on the practice of midwifery in this state.

(b) The Department of State Health Services shall publish a ~~[-, including]~~ statistical report ~~[reporting]~~ of infant fetal morbidity and mortality.

SECTION 1.016. The heading to Section 203.155, Occupations Code, is amended to read as follows:

Sec. 203.155. COMPLAINTS ~~[COMPLAINT PROCEDURE AND INVESTIGATION]~~.

SECTION 1.017. Sections 203.155(b) and (d), Occupations Code, are amended to read as follows:

(b) For purposes of Section 51.252, the commission must adopt ~~[The]~~ rules to ~~[adopted under Subsection (a) must:]~~

~~[(1) distinguish among categories of complaints;~~

~~[(2) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint; and~~

~~[(3)]~~ provide for the release of any relevant midwifery or medical record to the department ~~[midwifery board]~~, without the necessity of consent by the midwife's client, as necessary to conduct an investigation of a complaint.

(d) The department ~~[midwifery board]~~ shall provide reasonable assistance to a person who wishes to file a complaint with the department regarding a person or activity regulated by this chapter ~~[midwifery board]~~.

SECTION 1.018. Section 203.252(a), Occupations Code, is amended to read as follows:

(a) A person qualifies to become a licensed midwife under this chapter if the person provides the department ~~[program coordinator]~~ with documentary evidence that the person has:

(1) satisfied each requirement for basic midwifery education; and

(2) passed the comprehensive midwifery examination and jurisprudence examination required by this chapter.

SECTION 1.019. Section 203.253, Occupations Code, is amended to read as follows:

Sec. 203.253. LICENSE APPLICATION. A person who practices midwifery must apply to the department to be licensed as a midwife in the manner and on a form prescribed by the executive director. The application must:

(1) be accompanied by a nonrefundable application fee; and

(2) include information required by commission ~~[midwifery board]~~ rules.

SECTION 1.020. Section 203.254, Occupations Code, is amended to read as follows:

Sec. 203.254. BASIC MIDWIFERY EDUCATION. The commission ~~[Subject to the approval of the executive commissioner, the midwifery board]~~ shall establish requirements for basic midwifery education.

SECTION 1.021. Section 203.255(a), Occupations Code, is amended to read as follows:

(a) The department ~~[midwifery board, with the approval of the executive commissioner,]~~ shall:

(1) adopt a comprehensive midwifery examination for persons regulated under this chapter that must be passed before the initial license may be issued; and

(2) establish eligibility requirements for persons taking a comprehensive midwifery examination.

SECTION 1.022. Section 203.2555, Occupations Code, is amended to read as follows:

Sec. 203.2555. JURISPRUDENCE EXAMINATION. (a) The department ~~[midwifery board]~~ shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, ~~commission [midwifery board]~~ rules under this chapter, and any other applicable laws of this state affecting the applicant's midwifery practice.

(b) The ~~commission [Subject to the approval of the executive commissioner, the midwifery board]~~ shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 1.023. Section 203.256, Occupations Code, is amended to read as follows:

Sec. 203.256. TRAINING IN NEWBORN SCREENING AND BASIC LIFE SUPPORT CARDIOPULMONARY RESUSCITATION. A person who practices midwifery in this state must provide the department ~~[program coordinator]~~ with satisfactory evidence that the person:

(1) is trained to perform the newborn screening tests under Section 203.354 or has made arrangements for the performance of those tests; and

(2) holds:

(A) a current certificate issued by the American Heart Association in basic life support cardiopulmonary resuscitation; or

(B) another form of certification acceptable to the department that demonstrates proficiency in basic life support cardiopulmonary resuscitation for adults and children.

SECTION 1.024. Section 203.304, Occupations Code, is amended to read as follows:

Sec. 203.304. CONTINUING MIDWIFERY EDUCATION. (a) The commission by rule ~~[Subject to the approval of the executive commissioner, the midwifery board]~~ shall establish requirements for continuing midwifery education, including a minimum number of hours of continuing education required to renew a license under this chapter.

(b) On renewal of the license, a midwife must provide the ~~department [program coordinator]~~ with evidence, acceptable under commission [midwifery board] rules, of completion of continuing midwifery education as prescribed by the commission by rule [midwifery board].

(c) The commission [midwifery board] by rule shall develop a process to evaluate and approve continuing education courses.

SECTION 1.025. Section 203.305, Occupations Code, is amended to read as follows:

Sec. 203.305. REQUIRED ATTENDANCE AT SPECIFIC MIDWIFERY EDUCATION COURSES. The department [~~midwifery board~~] may assess the continuing education needs of licensed midwives and may require licensed midwives to attend continuing midwifery education courses specified by the department [~~midwifery board~~].

SECTION 1.026. Section 203.306, Occupations Code, is amended to read as follows:

Sec. 203.306. GROUNDS FOR REFUSING RENEWAL. The department [~~midwifery board~~] may refuse to renew the license of a person who fails to pay an administrative penalty [~~imposed under Subchapter J,~~] unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 1.027. Section 203.351(b), Occupations Code, is amended to read as follows:

(b) The department [~~midwifery board~~] shall prescribe the form of the informed choice and disclosure statement required to be used by a midwife under this chapter. The form must include:

- (1) statistics of the midwife's experience as a midwife;
- (2) the date the midwife's license expires;
- (3) the date the midwife's cardiopulmonary resuscitation certification expires;
- (4) the midwife's compliance with continuing education requirements;
- (5) a description of medical backup arrangements; and
- (6) the legal responsibilities of a midwife, including statements concerning newborn blood screening, ophthalmia neonatorum prevention, and prohibited acts under Sections 203.401-203.403.

SECTION 1.028. Section 203.352, Occupations Code, is amended to read as follows:

Sec. 203.352. PRENATAL AND CERTAIN MEDICAL CARE ENCOURAGED. A midwife shall encourage a client to seek:

- (1) prenatal care; and
- (2) medical care through consultation or referral, as specified by commission [~~midwifery board~~] rules, if the midwife determines that the pregnancy, labor, delivery, postpartum period, or newborn period of a woman or newborn may not be classified as normal for purposes of this chapter.

SECTION 1.029. Section 203.354(b), Occupations Code, is amended to read as follows:

(b) A midwife may collect blood specimens for the newborn screening tests if the midwife has been approved by the department to collect the specimen. The commission [~~Subject to the approval of the executive commissioner, the midwifery board~~] shall adopt rules establishing the standards for approval. The standards must recognize completion of a course of instruction that includes the blood specimen collection procedure or verification by appropriately trained health care providers that the midwife has been instructed in the blood collection procedures.

SECTION 1.030. Section 203.355(b), Occupations Code, is amended to read as follows:

(b) The Department of State Health Services ~~[department]~~ and a local health department, a public health district, or a local health unit shall provide clinical and laboratory support services to a pregnant woman or a newborn who is a client of a midwife if the midwife is required to provide the services under this chapter.

SECTION 1.031. Section 203.356(a), Occupations Code, is amended to read as follows:

(a) A physician, a registered nurse, or other person who, on the order of a physician, instructs a midwife in the approved techniques for collecting blood specimens to be used for newborn screening tests is immune from liability arising out of the failure or refusal of the midwife to:

- (1) collect the specimens in the approved manner; or
- (2) submit the specimens to the Department of State Health Services ~~[department]~~ in a timely manner.

SECTION 1.032. Sections 203.357(a) and (b), Occupations Code, are amended to read as follows:

(a) The department ~~[midwifery board]~~ may require information in addition to that required by Section 203.253 if it determines the additional information is necessary and appropriate to ascertain the nature and extent of midwifery in this state. The department ~~[midwifery board]~~ may not require information regarding any act that is prohibited under this chapter.

(b) The ~~[With the approval of the midwifery board, the]~~ department shall prescribe forms for the additional information and shall distribute those forms directly to each midwife. Each midwife must complete and return the forms to the department as requested.

SECTION 1.033. Section 203.401, Occupations Code, is amended to read as follows:

Sec. 203.401. PROHIBITED PRACTICES. A midwife may not:

(1) provide midwifery care in violation of commission ~~[midwifery board]~~ rule, except in an emergency that poses an immediate threat to the life of a woman or newborn;

(2) administer a prescription drug to a client other than:

(A) a drug administered under the supervision of a licensed physician in accordance with state law;

(B) prophylaxis approved by the Department of State Health Services ~~[department]~~ to prevent ophthalmia neonatorum; or

(C) oxygen administered in accordance with commission ~~[midwifery board]~~ rule;

(3) use forceps or a surgical instrument for a procedure other than cutting the umbilical cord or providing emergency first aid during delivery;

(4) remove placenta by invasive techniques;

(5) use a mechanical device or medicine to advance or retard labor or delivery; or

(6) make on a birth certificate a false statement or false record in violation of Section 195.003, Health and Safety Code.

SECTION 1.034. Section 203.404, Occupations Code, is amended to read as follows:

Sec. 203.404. GROUNDS FOR DISCIPLINARY ACTION. (a) The commission or executive director ~~[midwifery board]~~ may discipline a licensed midwife, refuse to renew a midwife's license, or refuse to issue a license to an applicant if the person:

- (1) violates this chapter or a rule adopted under this chapter;
- (2) submits false or misleading information to the ~~[midwifery board or the]~~ department;
- (3) is convicted of a misdemeanor involving moral turpitude or a felony;
- (4) uses alcohol or drugs intemperately;
- (5) engages in unprofessional or dishonorable conduct that may reasonably be determined to deceive or defraud the public;
- (6) is unable to practice midwifery with reasonable skill and safety because of illness, disability, or psychological impairment;
- (7) is determined by a court judgment to be mentally impaired;
- (8) submits a birth or death certificate known by the person to be false or fraudulent or engages in another act that violates Title 3, Health and Safety Code, or a rule adopted under that title;
- (9) violates Chapter 244, Health and Safety Code, or a rule adopted under that chapter; or
- (10) fails to practice midwifery in a manner consistent with the public health and safety.

(b) The commission or executive director ~~[midwifery board]~~ may discipline a licensed midwife and may refuse to issue a license to an applicant for a disciplinary action taken by another jurisdiction that affects the person's authority to practice midwifery, including a suspension, a revocation, or another action.

SECTION 1.035. Section 203.406, Occupations Code, is amended to read as follows:

Sec. 203.406. REFUND. (a) Subject to Subsection (b), the commission or executive director ~~[midwifery board]~~ may order a licensed midwife to pay a refund to a consumer as provided in an agreed settlement, default order, or commission order ~~[agreement resulting from an informal settlement conference]~~ instead of or in addition to imposing an administrative penalty against the license holder ~~[under this chapter]~~.

(b) The amount of a refund ordered ~~[as provided in an agreement resulting from an informal settlement conference]~~ may not exceed the amount the consumer paid to the licensed midwife for a service regulated by this chapter. The commission or executive director ~~[midwifery board]~~ may not require payment of other damages or estimate harm in a refund order.

SECTION 1.036. Section 203.501(a), Occupations Code, is amended to read as follows:

(a) A person is liable for a civil penalty if the person is required to be licensed under this chapter and the person knowingly or intentionally practices midwifery:

- (1) without a license or while the license is suspended or revoked; or
- (2) in violation of a commission ~~[midwifery board]~~ order.

SECTION 1.037. Section 203.502(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) If the executive director ~~[department]~~ or a health authority determines that a person has violated this chapter, the executive director may institute an action described by Section 51.352 ~~[and that the violation creates an immediate threat to the health and safety of the public, the department, or the health authority with the concurrence of the department, may request the attorney general or a district, county, or city attorney to bring an action in a district court for a restraining order to restrain the violation].~~

SECTION 1.038. Section 203.503(a), Occupations Code, is amended to read as follows:

(a) Venue for a civil action arising out of the imposition of an administrative penalty ~~[brought under Section 203.451 or 203.452]~~ is in the county in which the defendant resides or in the county in which the violation occurred.

SECTION 1.039. Section 203.505(b), Occupations Code, is amended to read as follows:

(b) A violation of a cease and desist ~~[an]~~ order issued by the executive director ~~[under this section]~~ constitutes grounds for imposing an administrative penalty ~~[under Subchapter J]~~.

SECTION 1.040. Section 401.001, Occupations Code, is amended by amending Subdivisions (1), (3), (4), and (4-a) and adding Subdivisions (1-a) and (4-b) to read as follows:

(1) "Advisory board" means the Speech-Language Pathologists and Audiologists Advisory Board.

(1-a) "Audiologist" means a person who meets the qualifications of this chapter to practice audiology.

(3) "Commission" ["Board"] means the Texas Commission of Licensing and Regulation ~~[State Board of Examiners for Speech Language Pathology and Audiology].~~

(4) "Department" means the Texas Department of Licensing and Regulation ~~[State Health Services].~~

(4-a) "Executive director" means the executive director of the department.

(4-b) "Hearing instrument" has the meaning assigned by Section 402.001.

SECTION 1.041. Section 401.052, Occupations Code, is amended to read as follows:

Sec. 401.052. NURSES. This chapter does not prevent or restrict a communication, speech, language, or hearing screening, as defined by commission ~~[board]~~ rule, from being conducted by a registered nurse:

(1) licensed in this state; and

(2) practicing in accordance with the standards of professional conduct and ethics established by rules adopted by the Texas Board of Nursing.

SECTION 1.042. Section 401.053, Occupations Code, is amended to read as follows:

Sec. 401.053. PERSONS TRAINED BY DEPARTMENT OF STATE HEALTH SERVICES. (a) This chapter does not apply to a person who shows evidence of having received training by the Department of State Health Services ~~[department]~~ in a communication, speech, language, or hearing screening training program approved by that ~~[the]~~ department if the person's activity is limited to screening as defined by commission ~~[board]~~ rule.

(b) A person who has received training by the Department of State Health Services ~~[department]~~ in a program under Subsection (a) may not:

- (1) practice speech-language pathology or audiology; or
- (2) represent that the person is a speech-language pathologist or audiologist.

SECTION 1.043. Sections 401.054(b), (c), and (d), Occupations Code, are amended to read as follows:

(b) The Texas Education Agency certificate in speech-language pathology must require an applicant to:

(1) hold a master's degree in communicative disorders or the equivalent from a university program accredited by the American Speech-Language-Hearing Association; and

(2) pass a national examination in speech-language pathology or audiology approved by the department ~~[board]~~.

(c) A person affected by this section who performs work as a speech-language pathologist or audiologist in addition to performing the person's duties within an agency, institution, or organization under the jurisdiction of the Texas Education Agency is required to hold a license issued by the department ~~[board]~~ unless that work is limited to speech and hearing screening procedures performed without compensation.

(d) For the purposes of Subsection (b)(1), an applicant's educational credentials are equivalent to a master's degree in communicative disorders if the credentials:

(1) consist of graduate-level course work and practicum from a program accredited by the American Speech-Language-Hearing Association; and

(2) meet requirements that are the same as those established by the department ~~[board]~~ for a license in speech-language pathology or audiology.

SECTION 1.044. The heading to Subchapter C, Chapter 401, Occupations Code, is amended to read as follows:

~~SUBCHAPTER C. [STATE BOARD OF EXAMINERS FOR]~~
~~SPEECH-LANGUAGE PATHOLOGISTS [PATHOLOGY] AND AUDIOLOGISTS~~
~~ADVISORY BOARD [AUDIOLOGY]~~

SECTION 1.045. Section 401.102, Occupations Code, is amended to read as follows:

Sec. 401.102. ADVISORY BOARD MEMBERSHIP. (a) The advisory board consists of nine members appointed by the presiding officer of the commission with the approval of the commission ~~[governor]~~ as follows:

- (1) three audiologist members;
 - (2) three speech-language pathologist members; and
 - (3) three members who represent the public.
- (b) Advisory board ~~[Board]~~ members must:

(1) have been a resident of this state for the two years preceding the date of appointment;

(2) be from the various geographic regions of the state; and

(3) be from varying employment settings.

(c) The advisory board members appointed under Subsections (a)(1) and (2) must:

(1) have been engaged in teaching, research, or providing services in speech-language pathology or audiology for at least five years; and

(2) be licensed under this chapter.

(d) One of the public advisory board members must be a physician licensed in this state and certified in otolaryngology or pediatrics.

(e) Appointments to the advisory board shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

SECTION 1.046. Subchapter C, Chapter 401, Occupations Code, is amended by adding Section 401.10205 to read as follows:

Sec. 401.10205. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.047. The heading to Section 401.105, Occupations Code, is amended to read as follows:

Sec. 401.105. TERMS; VACANCIES.

SECTION 1.048. Section 401.105(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term ~~[A person may not be appointed to serve more than two consecutive terms].~~

SECTION 1.049. Section 401.107, Occupations Code, is amended to read as follows:

Sec. 401.107. PRESIDING OFFICER ~~[BOARD OFFICERS]~~. (a) The presiding officer of the commission ~~[governor]~~ shall designate a member of the advisory board to serve as the presiding officer of the advisory board for a term of one year ~~[to serve in that capacity at the will of the governor]~~.

(b) The presiding officer of the advisory board may vote on any matter before the advisory board ~~[must hold a license under this chapter]~~.

SECTION 1.050. Section 401.108, Occupations Code, is amended to read as follows:

Sec. 401.108. MEETINGS. ~~[(a)]~~ The advisory board shall meet ~~[hold at least two regular meetings each year]~~.

[(b) Additional meetings may be held] at the call of the presiding officer of the commission or the executive director ~~[on the written request of any three members of the board]~~.

SECTION 1.051. The heading to Subchapter E, Chapter 401, Occupations Code, is amended to read as follows:

SUBCHAPTER E. ~~[BOARD AND DEPARTMENT]~~ POWERS AND DUTIES

SECTION 1.052. Section 401.201, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The executive director shall administer and enforce this chapter.

(a-1) The ~~[With the assistance of the]~~ department~~[, the board]~~ shall:

(1) ~~[administer, coordinate, and enforce this chapter;~~

~~[(2)]~~ evaluate the qualifications of license applicants;

(2) ~~[(3)]~~ provide for the examination of license applicants;

~~[(3)] [(4)]~~ in connection with a hearing under this chapter ~~[Section 401.454]~~, issue subpoenas, examine witnesses, and administer oaths under the laws of this state; and

~~[(4)] [(5)]~~ ~~conduct hearings and keep records and minutes necessary to the orderly administration of this chapter; and~~

~~[(6)]~~ investigate persons engaging in practices that violate this chapter.

SECTION 1.053. Section 401.202, Occupations Code, is amended to read as follows:

Sec. 401.202. STANDARDS OF ETHICAL PRACTICE ~~[RULEMAKING AUTHORITY]~~. The commission ~~[board]~~ shall adopt rules under ~~[necessary to administer and enforce]~~ this chapter~~[, including rules]~~ that establish standards of ethical practice.

SECTION 1.054. Section 401.2021, Occupations Code, is amended to read as follows:

Sec. 401.2021. ~~[JOINT]~~ RULES FOR HEARING INSTRUMENTS. With the assistance of the advisory ~~[department, the]~~ board and the Hearing Instrument Fitters and Dispensers Advisory Board, the commission ~~[State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments]~~ shall ~~[jointly]~~ adopt rules to establish requirements for each sale of a hearing instrument for purposes of this chapter and Chapter 402. The rules must:

(1) address:

(A) the information and other provisions required in each written contract for the purchase of a hearing instrument;

(B) records that must be retained under this chapter or Chapter 402; and

(C) guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument; and

(2) require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

SECTION 1.055. Section 401.2022, Occupations Code, is amended to read as follows:

Sec. 401.2022. ~~[JOINT]~~ RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE. (a) In this section, "telepractice" means the use of telecommunications technology by a license holder for an assessment, intervention, or consultation regarding a speech-language pathology or audiology client.

(b) With the assistance of the advisory ~~[department, the]~~ board and the Hearing Instrument Fitters and Dispensers Advisory Board, the commission ~~[State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments]~~ shall ~~[jointly]~~ adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice for purposes of this chapter and Chapter 402, including rules that establish the qualifications and duties of license holders who use telepractice.

SECTION 1.056. The heading to Section 401.203, Occupations Code, is amended to read as follows:

Sec. 401.203. ASSISTANCE FILING COMPLAINT ~~[BOARD DUTIES REGARDING COMPLAINTS]~~.

SECTION 1.057. Section 401.203(c), Occupations Code, is amended to read as follows:

(c) The department ~~[board]~~ shall provide reasonable assistance to a person who wishes to file a complaint with the department regarding a person or activity regulated under this chapter ~~[board]~~.

SECTION 1.058. Section 401.251, Occupations Code, is amended to read as follows:

Sec. 401.251. TELEPHONE NUMBER FOR COMPLAINTS. The department ~~[board]~~ shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

SECTION 1.059. The heading to Section 401.253, Occupations Code, is amended to read as follows:

Sec. 401.253. [GENERAL] RULES REGARDING USE OF PRIVATE INVESTIGATOR ~~[REGARDING COMPLAINT INVESTIGATION AND DISPOSITION]~~.

SECTION 1.060. Section 401.253(a), Occupations Code, is amended to read as follows:

(a) For purposes of Section 51.252, the commission must ~~[The board shall]~~ adopt rules to [concerning the investigation of a complaint filed with the board. The rules must:

~~[(1) distinguish among categories of complaints;~~

~~[(2) ensure that a complaint is not dismissed without appropriate consideration;~~

~~[(3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;~~

~~[(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and~~

[(5)] prescribe guidelines concerning the categories of complaints under this chapter that require the use of a private investigator and the procedures for the department ~~[board]~~ to obtain the services of a private investigator.

SECTION 1.061. The heading to Section 401.2535, Occupations Code, is amended to read as follows:

Sec. 401.2535. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [INVESTIGATION; SUBPOENA].

SECTION 1.062. Sections 401.2535(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department ~~[board]~~ in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department ~~[board]~~ or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the department ~~[board]~~ in a disciplinary action against the holder of a license;

(2) professional speech-language pathologist and audiologist licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the commission ~~[board]~~ under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the department ~~[board]~~ against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director ~~[board]~~, and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director ~~[board]~~ are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.063. Section 401.302, Occupations Code, is amended to read as follows:

Sec. 401.302. ISSUANCE OF LICENSE. (a) The department ~~[board]~~ shall issue a license to an applicant who meets the requirements of this chapter and who pays to the department ~~[board]~~ the initial nonrefundable license fee.

(b) The department ~~[board]~~ may issue to an applicant a license in either speech-language pathology or audiology.

(c) The department ~~[board]~~ may issue a license in both speech-language pathology and audiology to an applicant.

(d) The commission ~~[board]~~ by rule shall establish qualifications for dual licensing in speech-language pathology and audiology and may develop a full range of licensing options and establish rules for qualifications.

SECTION 1.064. Section 401.303(a), Occupations Code, is amended to read as follows:

(a) A person who desires a license under this chapter must apply to the department ~~[board]~~ on a form and in the manner prescribed by the executive director ~~[board prescribes]~~.

SECTION 1.065. Sections 401.304(a) and (c), Occupations Code, are amended to read as follows:

(a) To be eligible for licensing as a speech-language pathologist or audiologist, an applicant must:

(1) if the application is for a license in:

(A) speech-language pathology, possess at least a master's degree with a major in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is approved by the commission or department [board] and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university; or

(B) audiology, possess at least a doctoral degree in audiology or a related hearing science from a program accredited by a national accrediting organization that is approved by the commission or department [board] and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university;

(2) submit a transcript from a public or private institution of higher learning showing successful completion of course work in amounts set by the commission by rule [board] in:

(A) normal development and use of speech, language, and hearing;

(B) evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and

(C) related fields that augment the work of clinical practitioners of speech-language pathology and audiology;

(3) have successfully completed at least 36 semester hours in courses that are acceptable toward a graduate degree by the college or university in which the courses are taken, at least 24 of which must be in the professional area for which the license is requested;

(4) have completed the minimum number of hours, established by the commission by rule [board], of supervised clinical experience with persons who present a variety of communication disorders; and

(5) have completed the full-time supervised professional experience, as defined by commission [board] rule, in which clinical work has been accomplished in the major professional area for which the license is being sought.

(c) Supervised professional experience under Subsection (a)(5) must:

(1) be under the supervision of a qualified person acceptable to the department [board] under guidelines approved by the commission [board]; and

(2) begin after completion of the academic and clinical experience required by this section.

SECTION 1.066. Section 401.3041, Occupations Code, is amended to read as follows:

Sec. 401.3041. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) The department [board] shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the department [board], to the department [board] or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The department ~~[board]~~ may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The department ~~[board]~~ shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the department ~~[board]~~ by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department ~~[Department of State Health Services on behalf of the board]~~ may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 1.067. Section 401.305, Occupations Code, is amended to read as follows:

Sec. 401.305. EXAMINATION. (a) To obtain a license, an applicant must:

(1) pass an ~~[a validated]~~ examination approved by the commission by rule ~~[board]~~; and

(2) pay fees in a manner prescribed by the commission by rule ~~[board]~~.

(b) The department ~~[board]~~ shall[~~+~~]

~~[+]~~ administer an examination at least twice each year.

~~(b-1) The commission by rule shall[+]~~

~~[+]~~ determine standards for acceptable performance on the examination[~~+~~ and

~~[+]~~ maintain a record of all examination scores for at least two years after the date of examination].

(c) The commission ~~[board]~~ by rule may:

(1) establish procedures for the administration of the examination; and

(2) require a written or oral examination, or both.

(d) The commission by rule ~~[board]~~ may require the examination of ~~[examine]~~ an applicant in any theoretical or applied field of speech-language pathology or audiology it considers appropriate. The commission by rule ~~[board]~~ may require the examination of ~~[examine]~~ an applicant on professional skills and judgment in the use of speech-language pathology or audiology techniques or methods.

SECTION 1.068. Section 401.307(b), Occupations Code, is amended to read as follows:

(b) An applicant who fails two examinations may not be reexamined until the person:

(1) submits a new application accompanied by a nonrefundable application fee; and

(2) presents evidence acceptable to the department ~~[board]~~ of additional study in the area for which a license is sought.

SECTION 1.069. Section 401.308, Occupations Code, is amended to read as follows:

Sec. 401.308. PROVISIONAL LICENSE; CERTIFICATE OF CLINICAL COMPETENCE WAIVER. (a) The department [~~board~~] may grant a provisional license to an applicant who:

(1) is licensed in good standing as a speech-language pathologist or an audiologist in another state that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the department [~~board~~] relating to speech-language pathology or audiology; and

(3) is sponsored by a license holder with whom the provisional license holder may practice under this section.

(b) An applicant for a provisional license may be excused from the requirement of Subsection (a)(3) if the department [~~board~~] determines that compliance with that requirement is a hardship to the applicant.

(c) A provisional license is valid until the date the department [~~board~~] approves or denies the provisional license holder's application for a license.

(d) The department [~~board~~] shall issue a license under this chapter to a provisional license holder:

(1) who passes the examination required by Section 401.305;

(2) for whom the department [~~board~~] verifies satisfaction of the academic and experience requirements for a license under this chapter; and

(3) who satisfies any other license requirements under this chapter.

(e) The department [~~board~~] shall complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued.

(f) The department [~~board~~] may waive the examination requirement and issue a license to an applicant who holds the Certificate of Clinical Competence of the American Speech-Language-Hearing Association.

SECTION 1.070. Section 401.310(a), Occupations Code, is amended to read as follows:

(a) The department [~~board~~] shall issue a temporary certificate of registration to an applicant who:

(1) satisfies the requirements of Section 401.304;

(2) has not previously applied to take the examination; and

(3) pays the nonrefundable application fee.

SECTION 1.071. Section 401.311(c), Occupations Code, is amended to read as follows:

(c) The commission [~~board~~] by rule shall:

(1) prescribe the terms governing a person's practice as an intern under this section; and

(2) establish general guidelines and renewal procedures for the holder of an intern license.

SECTION 1.072. Sections 401.312(a) and (b), Occupations Code, are amended to read as follows:

(a) The commission by rule [~~board~~] may establish minimum qualifications for licensed assistants in speech-language pathology and in audiology.

(b) A licensed assistant in speech-language pathology or in audiology must meet the minimum qualifications established by the commission ~~[board]~~.

SECTION 1.073. Section 401.351, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 401.351. LICENSE TERM ~~[EXPIRATION]~~. ~~[(a)] A license issued under this chapter is valid for two years. [The board by rule may adopt a system under which licenses expire on various dates during the year.~~

~~[(b) For the year in which the license expiration date is changed, license fees payable on the original expiration date shall be prorated on a monthly basis so that each license holder pays only the portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.]~~

SECTION 1.074. Section 401.352(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) Each licensed speech-language pathologist or audiologist must pay the nonrefundable fee for license renewal. ~~[The board shall allow a 60-day grace period. After expiration of the grace period, the board may renew a license on payment of a penalty set by board rule.]~~

SECTION 1.075. Section 401.355, Occupations Code, is amended to read as follows:

Sec. 401.355. CONTINUING EDUCATION. (a) The commission by rule ~~[board]~~ shall establish uniform mandatory continuing education requirements. A license holder may not renew the person's license unless the person meets the continuing education requirements.

(b) The commission ~~[board]~~ shall establish the requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

SECTION 1.076. Section 401.401(c), Occupations Code, is amended to read as follows:

(c) The commission ~~[board]~~ shall adopt rules necessary to enforce this section.

SECTION 1.077. Section 401.403(b), Occupations Code, is amended to read as follows:

(b) A person who meets the requirements of this chapter for licensing as an audiologist or audiologist intern and who fits and dispenses hearing instruments must:

(1) register with the department ~~[board]~~ the person's intention to fit and dispense hearing instruments;

(2) comply with the profession's code of ethics;

(3) comply with the federal Food and Drug Administration guidelines for fitting and dispensing hearing instruments;

(4) when providing services in this state, use a written contract that contains the department's ~~[board's]~~ name, mailing address, and telephone number; and

(5) follow the guidelines adopted by commission ~~[board]~~ rule for a 30-day trial period on every hearing instrument purchased.

SECTION 1.078. Section 401.451(a), Occupations Code, is amended to read as follows:

(a) After a hearing, the commission or executive director ~~[board]~~ may deny a license to an applicant or may suspend or revoke a person's license or place on probation a license holder if the applicant or license holder:

(1) violates this chapter or an order issued or rule adopted under this chapter ~~[of the board]~~;

(2) obtains a license by means of fraud, misrepresentation, or concealment of a material fact;

(3) sells, barter, or offers to sell or barter a license or certificate of registration; or

(4) engages in unprofessional conduct that:

(A) endangers or is likely to endanger the health, welfare, or safety of the public as defined by commission ~~[board]~~ rule; or

(B) violates the code of ethics adopted and published by the commission ~~[board]~~.

SECTION 1.079. Section 401.453(a), Occupations Code, is amended to read as follows:

(a) The commission or department ~~[board]~~ may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. The commission or department ~~[board]~~ may take action authorized by this section when:

(1) the time for appeal of the person's conviction has elapsed;

(2) the judgment or conviction has been affirmed on appeal; or

(3) an order granting probation is made suspending the imposition of the person's sentence, without regard to whether a subsequent order:

(A) allows a withdrawal of a plea of guilty;

(B) sets aside a verdict of guilty; or

(C) dismisses an information or indictment.

SECTION 1.080. Section 401.5021, Occupations Code, is amended to read as follows:

Sec. 401.5021. ~~[BOARD-ORDERED]~~ REFUND. The commission or executive director ~~[board]~~ may order an audiologist to pay a refund to a consumer who returns a hearing instrument during the 30-day trial period required by rules adopted under Section 401.2021.

SECTION 1.081. Section 401.552(a), Occupations Code, is amended to read as follows:

(a) The amount of an ~~[the]~~ administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.082. Section 402.001, Occupations Code, is amended by amending Subdivisions (2), (3), and (6), amending Subdivision (3-a), as added by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivision (1) to read as follows:

(1) "Advisory board" means the Hearing Instrument Fitters and Dispensers Advisory Board.

(2) "Commission" [~~"Committee"~~] means the Texas Commission of Licensing and Regulation [~~State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments~~].

(3) "Department" means the Texas Department of Licensing and Regulation [~~State Health Services~~].

(3-a) "Executive director [~~commissioner~~]" means the executive director [~~commissioner~~] of the department [~~Health and Human Services Commission~~].

(6) "License" means a license issued by the department [~~committee~~] under this chapter to a person authorized to fit and dispense hearing instruments.

SECTION 1.083. The heading to Subchapter B, Chapter 402, Occupations Code, is amended to read as follows:

SUBCHAPTER B. HEARING INSTRUMENT FITTERS AND DISPENSERS
ADVISORY BOARD [~~STATE COMMITTEE OF EXAMINERS IN THE FITTING AND DISPENSING OF HEARING INSTRUMENTS~~]

SECTION 1.084. Section 402.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 402.051. ADVISORY BOARD [~~COMMITTEE~~]; MEMBERSHIP. (a) The advisory board [~~State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is part of the department and~~] consists of nine members appointed by the presiding officer of the commission [~~governor~~] with the approval [~~advice and consent~~] of the commission [~~senate~~] as follows:

(1) six members licensed under this chapter who have been residents of this state actually engaged in fitting and dispensing hearing instruments for at least five years preceding appointment, not more than one of whom may be licensed under Chapter 401;

(2) one member who is actively practicing as a physician licensed by the Texas Medical Board and who:

(A) has been a resident of this state for at least two years preceding appointment;

(B) is a citizen of the United States; and

(C) specializes in the practice of otolaryngology; and

(3) two members of the public.

(b) Appointments to the advisory board [~~committee~~] shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

SECTION 1.085. Subchapter B, Chapter 402, Occupations Code, is amended by adding Section 402.0511 to read as follows:

Sec. 402.0511. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.086. Section 402.055, Occupations Code, is amended to read as follows:

Sec. 402.055. TERMS; VACANCIES. (a) Members of the advisory board [~~committee~~] serve staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term ~~[A member who has served two full consecutive terms on the committee is not eligible for reappointment to the committee for the 12 months following the expiration of the second full term].~~

~~[(c) In the event of the death, resignation, or removal of a member, the governor shall fill the vacancy of the unexpired term in the same manner as other appointments.]~~

SECTION 1.087. Section 402.057, Occupations Code, is amended to read as follows:

Sec. 402.057. PRESIDING OFFICER ~~[OFFICERS]~~. ~~[(a)]~~ The presiding officer of the commission ~~[governor]~~ shall designate a member of the advisory board to serve ~~[committee]~~ as the presiding officer of the advisory board for a term of ~~[committee to serve in that capacity at the will of the governor]~~.

~~[(b) The term of office as an officer of the committee is]~~ one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

SECTION 1.088. Section 402.058, Occupations Code, is amended to read as follows:

Sec. 402.058. MEETINGS. ~~[(a)]~~ The advisory board ~~[committee]~~ shall meet ~~[hold regular meetings at least twice a year]~~.

~~[(b) A special meeting of the committee shall be held]~~ at the call of the presiding officer of the commission or the executive director ~~[a majority of the members]~~.

SECTION 1.089. The heading to Subchapter C, Chapter 402, Occupations Code, is amended to read as follows:

SUBCHAPTER C. [COMMITTEE] POWERS AND DUTIES

SECTION 1.090. Section 402.101, Occupations Code, is amended to read as follows:

Sec. 402.101. GENERAL POWERS AND DUTIES. (a) The executive director ~~[With the assistance of the department, the committee]~~ shall:

~~[(1)]~~ administer~~[-, coordinate,]~~ and enforce this chapter.

(b) The department shall:

(1) [;

~~[(2)]~~ evaluate the qualifications of applicants;

(2) [(3)] examine applicants; and

(3) [(4)] in connection with a hearing under this chapter ~~[Section 402.502]~~, issue subpoenas, examine witnesses, and administer oaths under the laws of this state~~[-, and~~

~~[(5) conduct hearings and keep records and minutes necessary to the orderly administration of this chapter].~~

SECTION 1.091. Section 402.1021, Occupations Code, is amended to read as follows:

Sec. 402.1021. [JOINT] RULES FOR HEARING INSTRUMENTS. With the assistance of the advisory board and the Speech-Language Pathologists and Audiologists Advisory Board ~~[department]~~, the commission ~~[committee and the State~~

~~Board of Examiners for Speech-Language Pathology and Audiology~~] shall ~~[jointly]~~ adopt rules to establish requirements for each sale of a hearing instrument for purposes of this chapter and Chapter 401. The rules must:

(1) address:

(A) the information and other provisions required in each written contract for the purchase of a hearing instrument;

(B) records that must be retained under this chapter or Chapter 401; and

(C) guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument; and

(2) require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

SECTION 1.092. Section 402.1023, Occupations Code, is amended to read as follows:

Sec. 402.1023. ~~[JOINT]~~ RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE. (a) In this section, "telepractice" means the use of telecommunications technology by a license holder for the fitting and dispensing of hearing instruments.

(b) With the assistance of the advisory board and the Speech-Language Pathologists and Audiologists Advisory Board [department], the commission [committee and the State Board of Examiners for Speech-Language Pathology and Audiology] shall [jointly] adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice for purposes of this chapter and Chapter 401, including rules that establish the qualifications and duties of license holders who use telepractice.

SECTION 1.093. The heading to Section 402.103, Occupations Code, is amended to read as follows:

Sec. 402.103. FALSE, MISLEADING, OR DECEPTIVE ~~[RULES RESTRICTING]~~ ADVERTISING ~~[OR COMPETITIVE BIDDING]~~.

SECTION 1.094. Section 402.103(c), Occupations Code, is amended to read as follows:

(c) For purposes of Section 51.204, an [An] advertisement is false, misleading, or deceptive if the advertisement:

(1) contains a misrepresentation of fact;

(2) contains a false statement as to the license holder's professional achievements, education, skills, or qualifications in the hearing instrument dispensing profession;

(3) makes a partial disclosure of relevant fact, including the advertisement of:

(A) a discounted price of an item without identifying in the advertisement or at the location of the item:

(i) the specific product being offered at the discounted price; or

(ii) the usual price of the item; and

(B) the price of a specifically identified hearing instrument, if more than one hearing instrument appears in the same advertisement without an accompanying price;

(4) contains a representation that a product innovation is new, if the product was first offered by the manufacturer to the general public in this state not less than 12 months before the date of the advertisement;

(5) states that the license holder manufactures hearing instruments at the license holder's office location unless the next statement discloses that the instruments are manufactured by a specified manufacturer and remanufactured by the license holder; or

(6) contains any other representation, statement, or claim that is inherently misleading or deceptive.

SECTION 1.095. Sections 402.104(a) and (e), Occupations Code, are amended to read as follows:

(a) The department ~~[committee]~~ shall develop and maintain an examination that may include written, oral, or practical tests. The department shall administer or arrange for the administration of the examination.

(e) The commission ~~[committee]~~ by rule shall establish the qualifications for a proctor. The rules must:

(1) require a proctor to be licensed in good standing as a hearing instrument fitter and dispenser;

(2) specify the number of years a proctor must be licensed as a hearing instrument fitter and dispenser; and

(3) specify the disciplinary actions or other actions that disqualify a person from serving as a proctor.

SECTION 1.096. Section 402.152, Occupations Code, is amended to read as follows:

Sec. 402.152. COMPLAINTS. (a) Each license or permit holder under this chapter shall at all times prominently display in the person's place of business a sign containing:

(1) the name, mailing address, e-mail address, and telephone number of the department ~~[committee]~~; and

(2) a statement informing consumers that a complaint against a license or permit holder may be directed to the department ~~[committee]~~.

(b) Each written contract for services in this state of a license holder ~~[licensed hearing instrument dispenser]~~ must contain the department's ~~[committee's]~~ name, mailing address, e-mail address, and telephone number.

SECTION 1.097. The heading to Section 402.154, Occupations Code, is amended to read as follows:

Sec. 402.154. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION ~~[INVESTIGATION; SUBPOENA]~~.

SECTION 1.098. Section 402.154, Occupations Code, is amended by amending Subsection (h), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and Subsection (i) to read as follows:

(h) All information and materials subpoenaed or compiled by the department ~~[committee]~~ in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release

to anyone other than the department ~~[committee]~~ or its agents or employees who are involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) persons involved with the department ~~[committee]~~ in a disciplinary action against the holder of a license;
- (2) professional licensing or disciplinary boards for the fitting and dispensing of hearing instruments in other jurisdictions;
- (3) peer assistance programs approved by the commission ~~[executive commissioner]~~ under Chapter 467, Health and Safety Code;
- (4) law enforcement agencies; and
- (5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the department ~~[committee]~~ against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director ~~[committee]~~, and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director ~~[committee]~~ are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.099. Section 402.202(a), Occupations Code, is amended to read as follows:

(a) To engage in fitting and dispensing hearing instruments in this state a person must pass an examination required by the department ~~[committee]~~.

SECTION 1.100. Sections 402.203(a) and (c), Occupations Code, are amended to read as follows:

(a) An applicant for examination must:

(1) apply to the department in the manner and ~~[committee]~~ on a form prescribed ~~[provided]~~ by the executive director ~~[committee]~~;

(2) provide ~~[on the form]~~:

(A) documentation ~~[sworn evidence]~~ that the applicant is at least 18 years of ~~[has attained the]~~ age ~~[of majority]~~ and has graduated from an accredited high school or equivalent; and

(B) other information determined necessary by the department ~~[committee]~~; and

(3) pay any required fees for application and examination.

(c) The department ~~[committee]~~ may refuse to examine an applicant who has been convicted of a misdemeanor that involves moral turpitude or a felony.

SECTION 1.101. Section 402.205(b), Occupations Code, is amended to read as follows:

(b) An examination shall be conducted in writing and by other means the department ~~[committee]~~ determines adequate to ascertain the qualifications of applicants.

SECTION 1.102. Section 402.207, Occupations Code, is amended to read as follows:

Sec. 402.207. ISSUANCE OF APPRENTICE PERMIT. (a) The department ~~[committee]~~ shall issue an apprentice permit to fit and dispense hearing instruments to a temporary training permit holder who has:

- (1) passed all parts of the examination with a score of 70 percent or greater;
- (2) paid the required fees; and
- (3) met all requirements of this chapter.

(b) An apprentice permit is valid for one year. The department [~~committee~~] may extend the apprentice permit for an additional period not to exceed one year [~~six months~~].

(c) An apprentice permit holder shall work under the supervision of a license holder [~~licensed hearing instrument dispenser~~] for at least one year. During the apprentice year, the apprentice permit holder shall complete 20 hours of classroom continuing education as required by Section 402.303 for a license holder.

SECTION 1.103. Section 402.208, Occupations Code, is amended to read as follows:

Sec. 402.208. ISSUANCE OF LICENSE. The department [~~committee~~] shall issue a [~~hearing instrument dispenser's~~] license to an apprentice permit holder when the department [~~committee~~] has received sufficient evidence that the apprentice permit holder has met all the licensing requirements of this chapter.

SECTION 1.104. Sections 402.209(a), (c), (e), (f), and (i), Occupations Code, are amended to read as follows:

(a) A person licensed to fit and dispense hearing instruments in another state may apply for a license under this chapter by submitting a completed [~~an~~] application on a form prescribed by the department [~~committee~~].

(c) An applicant for a license under this section shall provide as part of the application:

(1) written verification that the applicant is licensed in good standing as a fitter and dispenser of hearing instruments in another state and has held the license for at least three years preceding the date of application;

(2) written verification that:

(A) the requirements to obtain a license to fit and dispense hearing instruments in the state in which the applicant is licensed include passing an examination approved by the commission [~~committee~~] by rule; or

(B) the applicant holds a certification from a professional organization approved by the commission [~~committee~~] by rule;

(3) a written statement from the licensing entity in the state in which the applicant is licensed that details any disciplinary action taken by the entity against the applicant; and

(4) a statement of the applicant's criminal history acceptable to the department [~~committee~~].

(e) If the department approves an application, on the next regularly scheduled examination date the applicant may take the practical section of the examination required under Section 402.202 and a written examination of Texas law administered by the department. If the applicant passes the examinations required under this section, the department [~~committee~~] shall issue to the applicant a license under this chapter.

(f) The department may allow an applicant under this section who satisfies all application requirements other than the requirement under Subsection (c)(2) to take all sections of the examination required under Section 402.202. If the applicant passes the examination, the department ~~[committee]~~ shall issue to the applicant a license under this chapter.

(i) The department ~~[committee]~~ may not issue a license under this section to an applicant who is a licensed audiologist in another state. The department ~~[committee]~~ shall inform ~~[refer]~~ the applicant of ~~[to]~~ the licensing requirements of Chapter 401 ~~[State Board of Examiners for Speech Language Pathology and Audiology]~~.

SECTION 1.105. Section 402.210, Occupations Code, is amended to read as follows:

Sec. 402.210. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE ISSUANCE. (a) The department ~~[committee]~~ shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the department ~~[committee]~~, to the department ~~[committee]~~ or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The department ~~[committee]~~ may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The department ~~[committee]~~ shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the department ~~[committee]~~ by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department ~~[on behalf of the committee]~~ may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 1.106. Section 402.251, Occupations Code, is amended to read as follows:

Sec. 402.251. TEMPORARY TRAINING PERMIT QUALIFICATIONS.

(a) The department ~~[committee]~~ shall issue a temporary training permit to a person who:

(1) has never taken the examination administered under this chapter;

(2) possesses the qualifications required under Section 402.203(a);

(3) submits a written application on a form prescribed ~~[provided]~~ by the department ~~[committee]~~ furnishing documentation ~~[sworn evidence]~~ that the applicant satisfies the requirements of Subdivisions (1) and (2); and

(4) pays any required ~~[the temporary training permit]~~ fee.

(b) The department ~~[committee]~~ may issue a new temporary training permit under this section to a person on or after the 365th day after the person's previous temporary training permit expired.

SECTION 1.107. Section 402.252, Occupations Code, is amended to read as follows:

Sec. 402.252. SUPERVISION STATEMENT ~~[AFFIDAVIT]~~. (a) An application for a temporary training permit must be accompanied by the statement ~~[affidavit]~~ of a person licensed to fit and dispense hearing instruments under this chapter or Chapter 401, other than a person licensed under Section 401.311 or 401.312.

(b) The statement must be on a form prescribed by the department and ~~[affidavit must]~~ state that:

(1) the person will supervise the applicant~~[if granted a temporary training permit, will be supervised by the affiant]~~ in all work done by the applicant under the temporary training permit;

(2) the person [affiant] will notify the department ~~[committee]~~ not later than the 10th day after the date of the applicant's termination of supervision by the person ~~[affiant]~~; and

(3) if the person ~~[affiant]~~ is licensed under Chapter 401, the person ~~[affiant]~~ will comply with all provisions of this chapter and rules adopted under this chapter that relate to the supervision and training of a temporary training permit holder.

SECTION 1.108. Sections 402.253(b) and (c), Occupations Code, are amended to read as follows:

(b) A temporary training permit automatically expires on the first anniversary of the date of issuance unless the department ~~[committee]~~ extends the permit for an additional period not to exceed one year ~~[six months]~~.

(c) The department ~~[committee]~~ may not extend a temporary training permit more than once.

SECTION 1.109. Section 402.254(a), Occupations Code, is amended to read as follows:

(a) The commission by rule ~~[committee]~~ shall establish formal and practical education guidelines for the training of temporary training permit holders.

SECTION 1.110. Section 402.255(d), Occupations Code, is amended to read as follows:

(d) The supervisor shall maintain a log of the contact hours by practicum category on a form prescribed ~~[provided]~~ by the department ~~[committee]~~. After the temporary training permit holder has completed 150 contact hours, the supervisor and the permit holder shall sign the form, and the form shall be notarized and mailed to the department ~~[committee]~~.

SECTION 1.111. Section 402.256, Occupations Code, is amended to read as follows:

Sec. 402.256. AUTHORITY OF TEMPORARY TRAINING PERMIT HOLDER. (a) A temporary training permit holder may provide routine fitting and dispensing of hearing instruments that have ~~[has]~~ been ordered by the supervisor. The supervisor is the sole judge of whether the permit holder has the qualifications necessary to perform routine fitting and dispensing. A supervisor is accountable to the department ~~[committee]~~ for the actions and misdeeds of a temporary training permit holder acting at the supervisor's discretion.

(b) A temporary training permit holder may not:

(1) own, manage, or independently operate a business that engages in the fitting or sale of hearing instruments; or

(2) advertise or otherwise represent that the permit holder holds a license under this chapter ~~[as a hearing instrument dispenser]~~.

SECTION 1.112. Sections 402.257(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) On the request of a supervisor or temporary training permit holder, the department ~~[committee]~~ may approve a transfer of a permit holder from the permit holder's supervisor to another eligible supervisor before completion of the training.

(c) The department ~~[committee]~~ may approve a second transfer request before completion of the training only under exceptional circumstances. The department ~~[committee]~~ may not approve more than two transfers.

(d) If a transfer is approved, credit may be transferred at the discretion of the department ~~[committee]~~.

SECTION 1.113. Sections 402.301(a) and (f), Occupations Code, are amended to read as follows:

(a) A license under this chapter is valid for two years. The department ~~[committee]~~ shall renew the license every two years on payment of the renewal fee unless the license is suspended or revoked.

(f) The department ~~[committee]~~ may not renew 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.

SECTION 1.114. Sections 402.303(a), (b), (c), (d), and (e-1), Occupations Code, are amended to read as follows:

(a) The commission ~~[committee]~~ by rule shall adopt requirements for the continuing education of a license holder, including online continuing education requirements and a requirement that a license holder complete 20 hours of continuing education every two years. The department ~~[committee]~~ may not renew a license unless the license holder demonstrates compliance with the continuing education requirements established by the commission by rule ~~[committee]~~.

(b) A license holder shall provide written proof of attendance or completion of an approved course on a form prescribed by the department ~~[committee]~~.

(c) The department ~~[committee]~~ may waive compliance with the continuing education requirement for license renewal for a license holder who provides evidence of hardship or inability to meet the requirement. The waiver may be granted after review by the department ~~[committee]~~ on an annual basis.

(d) The commission ~~[committee]~~ shall adopt rules to establish reasonable requirements for continuing education sponsors and courses and to clearly define what constitutes a manufacturer or nonmanufacturer sponsor. The department shall review and approve continuing education sponsor and course applications. The department may request assistance from licensed members of the advisory board ~~[committee]~~ in approving a sponsor or course. The department must provide a list of approved continuing education sponsors and continuing education courses, including online

courses. The list must be revised and updated periodically. Any continuing education activity must be provided by an approved sponsor. The department shall approve at least five hours of specific courses each year.

(e-1) The department [~~committee~~] must allow a license holder to report at least 10 hours of online continuing education credit hours in a single reporting period.

SECTION 1.115. Section 402.304(b), Occupations Code, is amended to read as follows:

(b) A license holder may be credited with continuing education credit hours for a published book or article written by the license holder that contributes to the license holder's professional competence. The department [~~continuing education committee~~] may grant credit hours based on the degree to which the published book or article advances knowledge regarding the fitting and dispensing of hearing instruments. A license holder may claim in a reporting period not more than five credit hours for preparation of a publication.

SECTION 1.116. Section 402.305, Occupations Code, is amended to read as follows:

Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The department [~~committee~~] may renew the license of a license holder who does not comply with the continuing education requirements of Section [~~Sections~~] 402.303 or 402.304 if the license holder:

(1) was licensed for the first time during the 24 months before the reporting date;

(2) has served in the regular armed forces of the United States during part of the 24 months before the reporting date; or

(3) submits proof from an attending physician that the license holder suffered a serious or disabling illness or physical disability that prevented compliance with the continuing education requirements during the 24 months before the reporting date.

SECTION 1.117. Section 402.306, Occupations Code, is amended to read as follows:

Sec. 402.306. DUPLICATE LICENSE. The department [~~committee~~] shall issue a duplicate license to a license holder whose license has been lost or destroyed. The department [~~committee~~] may prescribe the procedure and requirements for issuance of a duplicate license.

SECTION 1.118. Section 402.351, Occupations Code, is amended to read as follows:

Sec. 402.351. DISPLAY OF LICENSE. A person engaged in fitting and dispensing hearing instruments shall display the person's license in a conspicuous place in the person's principal office and, when required, shall exhibit the license to the department [~~committee~~] or its authorized representative.

SECTION 1.119. Section 402.353(c), Occupations Code, is amended to read as follows:

(c) The commission [~~committee~~] shall adopt rules necessary to enforce this section.

SECTION 1.120. Section 402.401, Occupations Code, is amended to read as follows:

Sec. 402.401. TRIAL PERIOD. The commission by rule [committee] shall establish guidelines for a 30-day trial period during which a person may cancel the purchase of a hearing instrument.

SECTION 1.121. Section 402.403, Occupations Code, is amended to read as follows:

Sec. 402.403. WRITTEN CONTRACT. The owner of a hearing instrument fitting and dispensing practice shall ensure that each client receives a written contract at the time of purchase of a hearing instrument that contains:

- (1) the signature of the license holder who dispensed the hearing instrument;
- (2) the printed name of the license holder who dispensed the hearing instrument;
- (3) the address of the principal office of the license holder who dispensed the hearing instrument;
- (4) the license number of the license holder who dispensed the hearing instrument;
- (5) a description of the make and model of the hearing instrument;
- (6) the amount charged for the hearing instrument;
- (7) a statement of whether the hearing instrument is new, used, or rebuilt;
- (8) notice of the 30-day trial period under Section 402.401; and
- (9) the name, mailing address, e-mail address, and telephone number of the department [committee].

SECTION 1.122. Section 402.404, Occupations Code, is amended to read as follows:

Sec. 402.404. SURETY BONDING. (a) A sole proprietor, partnership, corporation, or other legal entity engaged in the fitting and dispensing of hearing instruments shall file with the department [committee] security in a form provided by Subsection (b) in the amount of \$10,000 and conditioned on the promise to pay all:

- (1) taxes and contributions owed to the state and political subdivisions of the state by the entity; and
- (2) judgments that the entity may be required to pay for:
 - (A) negligently or improperly dispensing hearing instruments; or
 - (B) breaching a contract relating to the dispensing of hearing instruments.

(b) The security may be a bond, a cash deposit, or another negotiable security acceptable to the department [committee].

(c) A bond required by this section remains in effect until canceled by action of the surety, the principal, or the department [committee]. A person must take action on the bond not later than the third anniversary of the date the bond is canceled.

SECTION 1.123. Section 402.451(a), Occupations Code, is amended to read as follows:

- (a) A person may not:
 - (1) buy, sell, or fraudulently obtain a license or aid another person to do so;
 - (2) alter a license with the intent to defraud;
 - (3) wilfully make a false statement in an application to the department [committee] for a license, a temporary training permit, or the renewal of a license;

- (4) falsely impersonate a license holder;
- (5) engage in the fitting and dispensing of hearing instruments when the person's license is suspended or revoked;
- (6) dispense or fit a hearing instrument on a person who has ordered the hearing instrument or device by mail unless the person dispensing or fitting is a license holder under this chapter or under Chapter 401; or
- (7) sell a hearing instrument by mail.

SECTION 1.124. Section 402.501, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 402.501. **GROUND FOR LICENSE DENIAL AND DISCIPLINARY ACTION.** The commission or executive director ~~[committee]~~ may 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:

- (1) makes a material misstatement in furnishing information to the department ~~[committee]~~ or to another state or federal agency;
- (2) violates this chapter or a rule adopted under this chapter;
- (3) is convicted of a felony or misdemeanor that includes dishonesty as an essential element or of a crime directly related to the practice of fitting and dispensing hearing instruments;
- (4) makes a misrepresentation for the purpose of obtaining or renewing a license, including falsifying the educational requirements under this chapter;
- (5) is professionally incompetent or engages in malpractice or dishonorable, unethical, or unprofessional conduct that is likely to deceive, defraud, or harm the public;
- (6) aids or assists another person in violating this chapter or a rule adopted under this chapter;
- (7) does not provide information in response to a written request made by the department within 60 days;
- (8) directly or indirectly knowingly employs, hires, procures, or induces a person not licensed under this chapter to fit and dispense hearing instruments unless the person is exempt under this chapter;
- (9) aids a person not licensed under this chapter in the fitting or dispensing of hearing instruments unless the person is exempt under this chapter;
- (10) is habitually intoxicated or addicted to a controlled substance;
- (11) directly or indirectly gives to or receives from a person a fee, commission, rebate, or other form of compensation for a service not actually provided;
- (12) violates a term of probation;
- (13) wilfully makes or files a false record or report;
- (14) has a physical illness that results in the inability to practice the profession with reasonable judgment, skill, or safety, including the deterioration or loss of motor skills through aging;
- (15) solicits a service by advertising that is false or misleading;
- (16) participates in subterfuge or misrepresentation in the fitting or dispensing of a hearing instrument;

(17) knowingly advertises for sale a model or type of hearing instrument that cannot be purchased;

(18) falsely represents that the service of a licensed physician or other health professional will be used or made available in the fitting, adjustment, maintenance, or repair of a hearing instrument;

(19) falsely uses the term "doctor," "audiologist," "clinic," "clinical audiologist," "state licensed," "state certified," "licensed hearing instrument dispenser," "board certified hearing instrument specialist," "hearing instrument specialist," or "certified hearing aid audiologist," or uses any other term, abbreviation, or symbol that falsely gives the impression that:

(A) a service is being provided by a person who is licensed or has been awarded a degree or title; or

(B) the person providing a service has been recommended by a government agency or health provider;

(20) advertises a manufacturer's product or uses a manufacturer's name or trademark in a way that implies a relationship between a license or permit holder and a manufacturer that does not exist;

(21) directly or indirectly gives or offers to give, or permits or causes to be given, money or another thing of value to a person who advises others in a professional capacity as an inducement to influence the person to influence the others to:

(A) purchase or contract to purchase products sold or offered for sale by the license or permit holder; or

(B) refrain from purchasing or contracting to purchase products sold or offered for sale by another license or permit holder under this chapter;

(22) with fraudulent intent fits and dispenses a hearing instrument under any name, including a false name or alias;

(23) does not adequately provide for the service or repair of a hearing instrument fitted and sold by the license holder; or

(24) violates a regulation of the federal Food and Drug Administration or the Federal Trade Commission relating to hearing instruments.

SECTION 1.125. The heading to Section 402.551, Occupations Code, is amended to read as follows:

Sec. 402.551. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 1.126. Section 402.551(b), Occupations Code, is amended to read as follows:

(b) The amount of an ~~the~~ administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$250 plus costs for the first violation and \$1,000 plus costs for each subsequent violation.

SECTION 1.127. Section 402.5521, Occupations Code, is amended to read as follows:

Sec. 402.5521. ~~[COMMITTEE ORDERED]~~ REFUND FOR HEARING INSTRUMENT. The commission or executive director ~~[committee]~~ may order a license holder to pay a refund to a consumer who returns a hearing instrument during the 30-day trial period required by rules adopted under Section 402.1021.

SECTION 1.128. Section 402.553(a), Occupations Code, is amended to read as follows:

(a) A person who violates this chapter or a rule adopted or order issued ~~[adopted by the committee]~~ under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

SECTION 1.129. Section 403.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Subdivision (1) and amending Subdivisions (2) and (3) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Department" means the Texas Department of Licensing and Regulation ~~[State Health Services]~~.

(3) "Executive director" ~~[commissioner]~~ means the executive director ~~[commissioner]~~ of the department ~~[Health and Human Services Commission]~~.

SECTION 1.130. Section 403.051, Occupations Code, is amended to read as follows:

Sec. 403.051. ADVISORY COMMITTEE. The department shall appoint an advisory committee to provide advice and recommendations to ~~[advise]~~ the department on technical matters relevant to the administration of ~~[in administering]~~ this chapter.

SECTION 1.131. Subchapter B, Chapter 403, Occupations Code, is amended by adding Section 403.0511 to read as follows:

Sec. 403.0511. GENERAL POWERS AND DUTIES. The executive director shall administer and enforce this chapter.

SECTION 1.132. Section 403.052, Occupations Code, is amended to read as follows:

Sec. 403.052. STANDARDS OF ETHICAL PRACTICE ~~[RULES]~~. The commission ~~[executive commissioner]~~ shall adopt rules ~~[necessary to administer and enforce this chapter, including rules]~~ that establish standards of ethical practice.

SECTION 1.133. Section 403.103(a), Occupations Code, is amended to read as follows:

(a) A license applicant must apply to the department on a form and in the manner prescribed by the executive director ~~[the department prescribes]~~.

SECTION 1.134. The heading to Section 403.107, Occupations Code, is amended to read as follows:

Sec. 403.107. EXAMINATION~~[- RULES]~~.

SECTION 1.135. Section 403.107(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) To obtain a license, an applicant must:

(1) pass a written examination approved by the department under Subsection (b); and

(2) pay the required fees ~~[set by the executive commissioner by rule]~~.

SECTION 1.136. Sections 403.152(a) and (b), Occupations Code, are amended to read as follows:

(a) A license holder's license may not be renewed unless the license holder meets the continuing education requirements established by the commission by rule ~~[executive commissioner]~~.

(b) The commission ~~[executive commissioner]~~, in consultation with the advisory committee, shall establish the continuing education requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

SECTION 1.137. The heading to Subchapter E, Chapter 403, Occupations Code, is amended to read as follows:

SUBCHAPTER E. LICENSE DENIAL; ~~[COMPLAINT AND]~~ DISCIPLINARY PROCEDURES

SECTION 1.138. Section 403.202, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 403.202. PROHIBITED ACTIONS. A license holder may not:

- (1) obtain a license by means of fraud, misrepresentation, or concealment of a material fact;
- (2) sell, barter, or offer to sell or barter a license; or
- (3) engage in unprofessional conduct that endangers or is likely to endanger the health, welfare, or safety of the public as defined by commission ~~[department]~~ rule.

SECTION 1.139. Section 403.203, Occupations Code, is amended to read as follows:

Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION. If a license holder violates this chapter or a rule or code of ethics adopted by the commission ~~[executive commissioner]~~, the commission or executive director ~~[department]~~ shall:

- (1) revoke or suspend the license;
- (2) place on probation the person if the person's license has been suspended;
- (3) reprimand the license holder; or
- (4) refuse to renew the license.

SECTION 1.140. Section 403.204(a), Occupations Code, is amended to read as follows:

(a) The commission or executive director ~~[department]~~ may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. The commission or executive director ~~[department]~~ may take action authorized by this section when:

- (1) the time for appeal of the person's conviction has elapsed;
- (2) the judgment or conviction has been affirmed on appeal; or
- (3) an order granting probation is made suspending the imposition of the person's sentence, without regard to whether a subsequent order:
 - (A) allows withdrawal of a plea of guilty;
 - (B) sets aside a verdict of guilty; or
 - (C) dismisses an information or indictment.

SECTION 1.141. Section 403.207(a), Occupations Code, is amended to read as follows:

(a) The commission ~~[executive commissioner]~~, in consultation with the advisory committee, by rule shall adopt a broad schedule of sanctions for a violation of this chapter.

SECTION 1.142. Section 403.209, Occupations Code, is amended to read as follows:

Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) The commission ~~[executive commissioner]~~ by rule shall develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Rules adopted under this section must include procedures to:

(1) monitor for compliance a license holder who is ordered by the commission or executive director ~~[department]~~ to perform certain acts; and

(2) identify and monitor license holders who represent a risk to the public.

SECTION 1.143. Section 403.212, Occupations Code, is amended to read as follows:

Sec. 403.212. REPRIMAND; CONTINUING EDUCATION. (a) In addition to other disciplinary action authorized by this subchapter, the commission or executive director ~~[department]~~ may:

(1) issue a written reprimand to a license holder who violates this chapter; or

(2) require that a license holder who violates this chapter attend continuing education programs.

(b) The commission or executive director ~~[department]~~, in consultation with the advisory committee, may specify the number of hours of continuing education that must be completed by a license holder to fulfill the requirement of Subsection (a)(2).

SECTION 1.144. The heading to Subchapter F, Chapter 403, Occupations Code, is amended to read as follows:

SUBCHAPTER F. PENALTIES ~~[AND OTHER ENFORCEMENT PROCEDURES]~~

SECTION 1.145. Section 403.251(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A person who violates this chapter or ~~[;]~~ a rule adopted ~~[by the executive commissioner under this chapter,]~~ or ~~[an]~~ order issued ~~[adopted by the department]~~ under this chapter is liable for a civil penalty not to exceed \$500 for each occurrence.

SECTION 1.146. Section 451.001, Occupations Code, is amended by amending Subdivision (2), amending Subdivisions (5) and (6), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivision (7) to read as follows:

(2) "Athletic trainer" means a person who practices athletic training, is licensed by the department ~~[board]~~, and may use the initials "LAT," "LATC," and "AT" to designate the person as an athletic trainer. The terms "sports trainer" and "licensed athletic trainer" are equivalent to "athletic trainer."

(5) "Commission" ~~["Commissioner"]~~ means the Texas Commission of Licensing and Regulation ~~[commissioner of state health services]~~.

(6) "Department" means the Texas Department of Licensing and Regulation ~~[State Health Services]~~.

(7) "Executive director" means the executive director of the department.

SECTION 1.147. Section 451.003, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 451.003. APPLICABILITY. This chapter does not apply to:

- (1) a physician licensed by the Texas Medical Board;
- (2) a dentist, licensed under the laws of this state, engaged in the practice of dentistry;
- (3) a licensed optometrist or therapeutic optometrist engaged in the practice of optometry or therapeutic optometry as defined by statute;
- (4) an occupational therapist engaged in the practice of occupational therapy;
- (5) a nurse engaged in the practice of nursing;
- (6) a licensed podiatrist engaged in the practice of podiatry as defined by statute;
- (7) a physical therapist engaged in the practice of physical therapy;
- (8) a registered massage therapist engaged in the practice of massage therapy;
- (9) a commissioned or contract physician, physical therapist, or physical therapist assistant in the United States Army, Navy, Air Force, or Public Health Service; or
- (10) an athletic trainer who does not live in this state, who is licensed, registered, or certified by an authority recognized by the department ~~[board]~~, and who provides athletic training in this state for a period determined by the department ~~[board]~~.

SECTION 1.148. Section 451.051(b), Occupations Code, is amended to read as follows:

(b) The board consists of five members appointed by the presiding officer of the commission ~~[governor]~~ with the approval ~~[advice and consent]~~ of the commission ~~[senate]~~ as follows:

- (1) three members who are athletic trainers; and
- (2) two members who represent the public.

SECTION 1.149. Subchapter B, Chapter 451, Occupations Code, is amended by adding Section 451.0521 to read as follows:

Sec. 451.0521. DUTIES OF BOARD. The board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.150. Section 451.053(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs on the board, the presiding officer of the commission, with the commission's approval, ~~[governor]~~ shall appoint a replacement who meets the qualifications for the vacant position ~~[successor]~~ to serve for the unexpired portion of the term.

SECTION 1.151. Section 451.055, Occupations Code, is amended to read as follows:

Sec. 451.055. PRESIDING OFFICER ~~[OFFICERS]~~. ~~[(a)]~~ The presiding officer of the commission ~~[governor]~~ shall designate a member of the board [as the board's presiding officer] to serve as the presiding officer of the board for ~~[in that capacity at~~

~~the will of the governor. The board shall elect an assistant presiding officer and secretary treasurer from its members. The assistant presiding officer and secretary treasurer serve] a one-year term. The presiding officer of the board may vote on any matter before the board.~~

SECTION 1.152. Section 451.056, Occupations Code, is amended to read as follows:

Sec. 451.056. MEETINGS. The board shall meet at ~~[least twice a year. The board may hold additional meetings on]~~ the call of the presiding officer of the commission or the executive director ~~[at the written request of any three members of the board].~~

SECTION 1.153. The heading to Subchapter C, Chapter 451, Occupations Code, is amended to read as follows:

SUBCHAPTER C. ~~[BOARD]~~ POWERS AND DUTIES

SECTION 1.154. Section 451.101, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The executive director shall administer and enforce this chapter.

(a-1) The department ~~[board]~~ shall:

- (1) adopt an official seal;
- (2) prescribe the application form for a license applicant;
- (3) prescribe a suitable form for a license certificate; ~~[and]~~
- (4) prepare and conduct an examination for license applicants;
- (5) maintain a complete record of all licensed athletic trainers; and
- (6) annually prepare a roster showing the names and addresses of all

licensed athletic trainers.

(a-2) The department shall make a copy of the roster available to any person requesting it on payment of a fee established by the department in an amount sufficient to cover the cost of the roster.

SECTION 1.155. The heading to Section 451.110, Occupations Code, is amended to read as follows:

Sec. 451.110. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION ~~[SUBPOENAS]~~.

SECTION 1.156. Sections 451.110(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department ~~[board]~~ in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department ~~[board]~~ or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) persons involved with the department ~~[board]~~ in a disciplinary action against the holder of a license;
- (2) athletic trainer licensing or disciplinary boards in other jurisdictions;
- (3) peer assistance programs approved by the commission ~~[board]~~ under Chapter 467, Health and Safety Code;
- (4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the department [~~board~~] against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director [~~board~~], and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director [~~board~~] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.157. Section 451.152, Occupations Code, is amended to read as follows:

Sec. 451.152. LICENSE APPLICATION. An applicant for an athletic trainer license must submit to the department [~~board~~]:

(1) an application in the manner and on a form prescribed by the executive director [~~board~~]; and

(2) the required examination fee.

SECTION 1.158. Section 451.153, Occupations Code, is amended to read as follows:

Sec. 451.153. APPLICANT QUALIFICATIONS. (a) An applicant for an athletic trainer license must:

(1) have met the athletic training curriculum requirements of a college or university approved by the commission [~~board~~] and give proof of graduation;

(2) hold a degree or certificate in physical therapy and have completed:

(A) a basic athletic training course from an accredited college or university; and

(B) an apprenticeship described by Subsection (b); or

(3) have a degree in corrective therapy with at least a minor in physical education or health that includes a basic athletic training course and meet the apprenticeship requirement or any other requirement established by the commission [~~board~~].

(b) The apprenticeship required to be completed by an applicant consists of 720 hours completed in two years under the direct supervision of a licensed athletic trainer acceptable to the department [~~board~~]. Actual working hours include a minimum of 20 hours a week during each fall semester.

SECTION 1.159. Section 451.156, Occupations Code, is amended to read as follows:

Sec. 451.156. REQUIREMENTS FOR LICENSE ISSUANCE. An applicant for an athletic trainer license is entitled to receive the license if the applicant:

(1) satisfies the requirements of Section 451.153 or 451.154;

(2) ~~passes~~ [~~satisfactorily completes~~] the examination required [~~administered~~] by the department [~~board~~];

(3) pays the required license fee; and

(4) has not committed an act that constitutes grounds for refusal of a license under Section 451.251.

SECTION 1.160. Section 451.157, Occupations Code, is amended to read as follows:

Sec. 451.157. TEMPORARY LICENSE. (a) The department [~~board~~] may issue a temporary license to an applicant if the applicant satisfies:

- (1) the requirements of Section 451.153 or 451.154; and
- (2) any other requirement established by the commission [~~board~~].

(b) The commission [~~board~~] by rule shall prescribe the time during which a temporary license is valid.

SECTION 1.161. The heading to Section 451.201, Occupations Code, is amended to read as follows:

Sec. 451.201. LICENSE EXPIRATION; RENEWAL.

SECTION 1.162. Section 451.201(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A license issued under Section 451.156 expires on the second anniversary of the date of issuance and may be renewed biennially.

SECTION 1.163. Section 451.251(a), Occupations Code, is amended to read as follows:

(a) The commission or executive director [~~board~~] may refuse to issue a license to an applicant and shall reprimand a license holder or suspend, revoke, or refuse to renew a person's license if the person:

- (1) has been convicted of a misdemeanor involving moral turpitude or a felony;
- (2) obtained the license by fraud or deceit;
- (3) violated or conspired to violate this chapter or a rule adopted under this chapter; or
- (4) provided services outside the scope of practice of athletic training.

SECTION 1.164. The heading to Section 451.351, Occupations Code, is amended to read as follows:

Sec. 451.351. AMOUNT [~~IMPOSITION~~] OF ADMINISTRATIVE PENALTY.

SECTION 1.165. Section 451.351(c), Occupations Code, is amended to read as follows:

(c) The amount of an administrative [~~the~~] penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$500 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$2,500.

SECTION 1.166. Section 605.002, Occupations Code, is amended by amending Subdivision (1), amending Subdivision (5), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subdivisions (2) and (5-a) to read as follows:

(1) "Advisory board" [~~"Board"~~] means the Orthotists and Prosthetists Advisory [~~Texas~~] Board [~~of Orthotics and Prosthetics~~].

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(5) "Department" means the Texas Department of Licensing and Regulation [~~State Health Services~~].

(5-a) "Executive director" means the executive director of the department.

SECTION 1.167. The heading to Subchapter B, Chapter 605, Occupations Code, is amended to read as follows:

SUBCHAPTER B. ORTHOTISTS AND PROSTHETISTS ADVISORY ~~[TEXAS]~~
BOARD ~~[OF ORTHOTICS AND PROSTHETICS]~~

SECTION 1.168. Section 605.052, Occupations Code, is amended to read as follows:

Sec. 605.052. ADVISORY ~~[APPOINTMENT OF]~~ BOARD~~[;]~~ MEMBERSHIP.

(a) The advisory board consists of seven members appointed by the presiding officer of the commission ~~[governor]~~ with the approval ~~[advice and consent]~~ of the commission ~~[senate]~~ as follows:

(1) two ~~[one]~~ licensed orthotist members ~~[member]~~ who each have ~~[has]~~ practiced orthotics for the five years preceding the date of appointment;

(2) two ~~[one]~~ licensed prosthetist members ~~[member]~~ who each have ~~[has]~~ practiced prosthetics for the five years preceding the date of appointment;

(3) one licensed prosthetist orthotist member who has practiced orthotics and prosthetics for the five years preceding the date of appointment;

(4) one member who is a representative of the public who uses an orthosis;
and

(5) one member who is a representative of the public who uses a prosthesis~~[;]~~
and

~~[(6) two members who are representatives of the public who do not use an orthosis or prosthesis].~~

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 1.169. Subchapter B, Chapter 605, Occupations Code, is amended by adding Section 605.0521 to read as follows:

Sec. 605.0521. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.170. Section 605.055, Occupations Code, is amended to read as follows:

Sec. 605.055. TERMS; VACANCY. (a) Members of the advisory board serve staggered six-year terms. The terms of two or three members expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, [governor] shall appoint a replacement who meets the qualifications for the vacant position ~~[person]~~ to serve for the remainder of the term.

SECTION 1.171. Section 605.056, Occupations Code, is amended to read as follows:

Sec. 605.056. PRESIDING OFFICER ~~[OFFICERS]~~. The members of the advisory board shall elect from the advisory board's membership a presiding officer of the advisory board to serve for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board~~[, a secretary, and other officers as required to conduct the board's business].~~

SECTION 1.172. Section 605.059, Occupations Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The advisory ~~[A special meeting of the]~~ board shall meet at the call of [be called by] the presiding officer of the commission or the executive director [or on the written request of any three members].

(c) Four or more advisory board members may call a special meeting of the advisory board by providing written notice not less than 14 days before the date of the meeting to:

(1) the presiding officer of the commission;

(2) the executive director; and

(3) all other members of the advisory board.

(d) Not more than two special meetings of the advisory board may be called under Subsection (c) in a calendar year.

SECTION 1.173. Section 605.151, Occupations Code, is amended to read as follows:

Sec. 605.151. GENERAL POWERS AND DUTIES [OF BOARD]. The executive director shall administer and enforce this chapter ~~[board may:~~

~~[(1) investigate complaints;~~

~~[(2) issue, suspend, deny, and revoke licenses;~~

~~[(3) reprimand license holders and place license holders on probation;~~

~~[(4) in connection with a hearing under Section 605.353, issue subpoenas;~~

~~[(5) hold hearings; and~~

~~[(6) use personnel, facilities, furniture, equipment, and other items supplied by the department to administer this chapter].~~

SECTION 1.174. Section 605.155, Occupations Code, is amended to read as follows:

Sec. 605.155. EXAMINATIONS. The department ~~[board]~~ must approve any examination required for a license under this chapter. Each examination shall be offered at least once each year.

SECTION 1.175. The heading to Subchapter E, Chapter 605, Occupations Code, is amended to read as follows:

SUBCHAPTER E. ~~[PUBLIC INTEREST INFORMATION AND]~~ COMPLAINT INFORMATION [PROCEDURES]

SECTION 1.176. The heading to Section 605.2021, Occupations Code, is amended to read as follows:

Sec. 605.2021. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION [SUBPOENAS].

SECTION 1.177. Sections 605.2021(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department ~~[board]~~ in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department [board] or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the department [~~board~~] in a disciplinary action against the holder of a license;

(2) professional orthotist or prosthetist disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the commission [~~board~~] under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the department [~~board~~] against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director [~~board~~], and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director [~~board~~] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.178. Section 605.251, Occupations Code, is amended to read as follows:

Sec. 605.251. LICENSE REQUIRED. A person may not practice, attempt to practice, or offer to practice orthotics or prosthetics, act as an assistant to a person who practices orthotics or prosthetics, or in any way hold the person out as being able to practice orthotics or prosthetics unless the person holds a license [~~issued by the board~~] under this chapter.

SECTION 1.179. Section 605.252, Occupations Code, is amended to read as follows:

Sec. 605.252. LICENSE ELIGIBILITY. (a) To be eligible for a license to practice orthotics or prosthetics in this state, a person must:

(1) submit an [~~file a written~~] application in the manner and [~~with the board~~] on the form prescribed by the executive director [~~board~~];

(2) pay the nonrefundable application fee;

(3) be a resident of this state;

(4) have completed formal training, including the required hours of classroom education and clinical practice, in an area of study the commission [~~board~~] by rule determines to be necessary and appropriate;

(5) have completed a clinical residency in the professional area for which a license is sought that complies with the standards, guidelines, or procedures established by the department [~~board~~] for a clinical residency that is offered in this state or another state; and

(6) have passed each written and practical examination approved and required by the department [~~board~~].

(b) The requirements for a license established by commission [~~board~~] rule must include the requirement that the applicant hold:

(1) a bachelor's or graduate degree in orthotics and prosthetics from:

(A) an education program recognized and accredited by the Commission on Accreditation of Allied Health Education Programs that is offered at an institution of higher education; or

(B) a practitioner education program that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs; or

(2) a bachelor's degree in another subject and an orthotic or prosthetic certificate issued by a practitioner education program:

(A) recognized and accredited by the Commission on Accreditation of Allied Health Education Programs; or

(B) that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs.

(c) To meet the clinical residency requirements for a license, the applicant must complete a professional clinical residency that meets the requirements established by commission ~~[board]~~ rule and is conducted under the direct supervision of a licensed orthotist, licensed prosthetist, or a licensed prosthetist orthotist in the discipline for which licensure is sought. The clinical residency requirements adopted by the commission ~~[board]~~ must be equivalent to or exceed the standards set by the National Commission on Orthotic and Prosthetic Education.

(d) The department ~~[board]~~ may accept as a substitute for the examination requirement proof that the license applicant holds a license in a state that has licensing requirements that are equal to or exceed the requirements of this chapter.

SECTION 1.180. Sections 605.254(a) and (c), Occupations Code, are amended to read as follows:

(a) A person is entitled to an exemption from the license requirements established ~~[by the board]~~ under Section 605.252 if the person is a resident of this state who~~[-~~

~~[(1) applies for the exemption not later than the 181st day after the date on which the board's initial rules are finally adopted and:~~

~~[(A) has provided comprehensive orthotic or prosthetic care for at least three years before the date of the application, including practicing orthotics or prosthetics in this state for the year preceding that date; or~~

~~[(B) has provided comprehensive orthotic and prosthetic care for at least six years, including practicing orthotics and prosthetics in this state for the year preceding the application date; or~~

~~[(2)] presents evidence satisfactory to the department ~~[board]~~ that the person possesses unique qualifications to practice orthotics, prosthetics, or orthotics and prosthetics.~~

(c) The department ~~[board]~~ shall issue a license to a person who is determined to be eligible for a license under Subsection (a) ~~[or (b)]~~. A person to whom a license is issued under this subsection is entitled to the same license privileges as if the person met the educational and vocational requirements of Section 605.252. The license holder is subject to the license renewal requirements established by the commission ~~[board]~~, other than the academic, clinical training, and examination requirements, which the commission ~~[board]~~ may not impose as a condition of the person's license.

SECTION 1.181. Sections 605.255(a) and (b), Occupations Code, are amended to read as follows:

(a) An applicant for a license as an orthotist assistant or prosthetist assistant must:

(1) submit an application in the manner and ~~[file a written application with the board]~~ on a form prescribed ~~[provided]~~ by the executive director ~~[board]~~;

(2) pay the nonrefundable application fee established ~~[prescribed]~~ by the commission by rule ~~[board]~~; and

(3) present evidence satisfactory to the department ~~[board]~~ that the applicant has completed an education program, including courses in the anatomical, biological, and physical sciences, and a clinical residency as prescribed and adopted by the commission by rule ~~[board]~~.

(b) An assistant licensed under this section may provide only ancillary patient care services, as defined by the commission by rule ~~[board]~~, in the discipline in which the assistant's supervisor is licensed under this chapter.

SECTION 1.182. Sections 605.256(a) and (b), Occupations Code, are amended to read as follows:

(a) The department ~~[board]~~ may issue a license or registration certificate under this chapter only to an individual.

(b) The department ~~[board]~~ shall issue a license in orthotics or prosthetics to an applicant who meets the requirements provided under this chapter. A license may be granted in either orthotics or prosthetics, or in both, if the person meets the requirements established by the department ~~[board]~~.

SECTION 1.183. Section 605.257, Occupations Code, is amended to read as follows:

Sec. 605.257. TEMPORARY LICENSE. (a) The department ~~[board]~~ may issue a temporary license to an individual who:

(1) has recently become a resident of this state;

(2) has applied for a license as an orthotist, prosthetist, or both; and

(3) has:

(A) practiced orthotics regularly since January 1, 1996; or

(B) been licensed by the state in which the person formerly resided if that state has license requirements that are equal to or exceed the requirements of this chapter.

(b) A temporary license is valid for one year from the date issued. A temporary license may be renewed for not more than one additional year if the applicant presents evidence sufficient to the department ~~[board]~~ of good cause for renewal.

SECTION 1.184. Section 605.258(a), Occupations Code, is amended to read as follows:

(a) The department ~~[board]~~ may issue a student registration certificate to an individual who is working toward fulfilling the requirements for a license as an orthotist, prosthetist, or prosthetist orthotist and:

(1) holds either:

(A) a bachelor's or graduate degree in orthotics and prosthetics from:

(i) an education program recognized and accredited by the Commission on Accreditation of Allied Health Education Programs that is offered at an institution of higher education; or

(ii) a practitioner education program that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs; or

(B) a bachelor's degree in another subject and an orthotic or prosthetic certificate issued by a practitioner education program:

(i) recognized and accredited by the Commission on Accreditation of Allied Health Education Programs; or

(ii) that has education standards that are equivalent to or exceed the standards adopted by the Commission on Accreditation of Allied Health Education Programs; or

(2) is a student who:

(A) is currently enrolled in a graduate program in this state in orthotics and prosthetics that:

(i) is recognized and accredited by the Commission on Accreditation of Allied Health Education Programs; and

(ii) incorporates a professional clinical residency that meets the requirements of rules adopted under Section 605.252(c); and

(B) submits to the department ~~[board]~~ a written certification from the graduate program in which the student is enrolled that the student has successfully completed the academic prerequisites to enter a professional clinical residency.

SECTION 1.185. Section 605.259(a), Occupations Code, is amended to read as follows:

(a) The department ~~[board]~~ may issue a registered orthotic technician or registered prosthetic technician certificate to an applicant who:

(1) submits an ~~[files a written]~~ application in the manner and ~~[with the board]~~ on a form prescribed ~~[provided]~~ by the executive director ~~[board]~~;

(2) pays the nonrefundable application fee; and

(3) presents evidence satisfactory to the department ~~[board]~~ that the applicant has completed an education program and laboratory experience as prescribed by the commission by rule ~~[board]~~.

SECTION 1.186. Sections 605.260(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) The commission ~~[board]~~ by rule shall establish requirements for the accreditation and the renewal of an accreditation of an orthotic or prosthetic facility in which orthotics or prosthetics are conducted. The department ~~[board]~~ may issue an accreditation only to an orthotic or prosthetic facility.

(b) If a person owns more than one facility, the department ~~[board]~~ may require only one application for the accreditation of each of the person's facilities. Each orthotic or prosthetic facility must meet the requirements established by commission rule ~~[the board]~~.

(c) An orthotic or prosthetic facility must be under the on-site direction of an orthotist or prosthetist licensed by the department ~~[board]~~ in the discipline for which accreditation is sought.

SECTION 1.187. Section 605.261, Occupations Code, is amended to read as follows:

Sec. 605.261. CONTINUING EDUCATION. (a) The commission [~~board~~] shall:

(1) adopt rules that require a license holder to participate in an approved continuing education program to renew a license issued under this chapter; and

(2) prepare or approve continuing education programs for license holders.

(b) To renew a license under this chapter, an applicant must submit to the department [~~board~~] evidence of satisfactory completion of the continuing education requirements required by the commission [~~board~~].

(c) The department [~~board~~] shall notify a license holder who has failed to comply with the [~~board's~~] continuing education requirements of the license holder's failure to comply and that failure to obtain the required continuing education before the expiration of three months after the date the notice is given constitutes grounds for the commission or executive director [~~board~~] to suspend or revoke the license holder's license.

SECTION 1.188. Section 605.353, Occupations Code, is amended to read as follows:

Sec. 605.353. DISCIPLINARY ACTIONS. (a) After notice and opportunity for a hearing, the commission or executive director [~~board~~] may revoke, suspend, or refuse to renew a license issued under this chapter on a finding that:

(1) the license was obtained by fraud, misrepresentation, or concealment of a material fact;

(2) the person engaged in fraud or deceit in connection with services provided by the person;

(3) the person engaged in unprofessional or unethical conduct;

(4) the person engaged in gross negligence or malpractice; or

(5) the person violated this chapter or a rule adopted under this chapter.

(b) The commission or executive director [~~board~~] may reinstate a license revoked under Subsection (a) after the first anniversary of the date of the revocation on terms the commission or executive director [~~board~~] determines to be necessary.

SECTION 1.189. Section 605.354(c), Occupations Code, is amended to read as follows:

(c) The attorney general shall bring an action in the name of the state at the department's [~~board's~~] request to collect a civil penalty under this section.

SECTION 1.190. Section 605.402(a), Occupations Code, is amended to read as follows:

(a) The amount of an [~~the~~] administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.191. Section 701.002, Occupations Code, is amended by amending Subdivisions (1), (2), and (4) and adding Subdivision (1-a) to read as follows:

(1) "Advisory board" means the Dietitians Advisory Board.

(1-a) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of state health services~~].

(2) "Department" means the Texas Department of Licensing and Regulation [~~State Health Services~~].

(4) "Executive director" [~~"Dietitians board"~~] means the executive director of the department [~~Texas State Board of Examiners of Dietitians~~].

SECTION 1.192. The heading to Subchapter B, Chapter 701, Occupations Code, is amended to read as follows:

SUBCHAPTER B. [~~TEXAS STATE BOARD OF EXAMINERS OF~~] DIETITIANS
ADVISORY BOARD

SECTION 1.193. Section 701.051, Occupations Code, is amended to read as follows:

Sec. 701.051. DIETITIANS ADVISORY BOARD MEMBERSHIP. (a) The advisory board [~~Texas State Board of Examiners of Dietitians~~] consists of nine members appointed by the presiding officer of the commission [~~governor~~] with the approval [~~advice and consent~~] of the commission [~~senate~~] as follows:

(1) six licensed dietitian members, each of whom has been licensed under this chapter for not less than three years before the member's date of appointment; and

(2) three members who represent the public.

(b) In appointing dietitian members to the advisory [~~dietitians~~] board, the presiding officer of the commission [~~governor~~] shall attempt to maintain balanced representation among the following primary areas of expertise included in the professional discipline of dietetics:

(1) clinical;

(2) educational;

(3) management;

(4) consultation; and

(5) community.

(c) Appointments to the advisory [~~dietitians~~] board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 1.194. Subchapter B, Chapter 701, Occupations Code, is amended by adding Section 701.0511 to read as follows:

Sec. 701.0511. DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.195. Section 701.054, Occupations Code, is amended to read as follows:

Sec. 701.054. TERMS; VACANCIES. (a) Members of the advisory [~~dietitians~~] board serve staggered six-year terms. The terms of three [~~two~~] members begin on September 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

SECTION 1.196. Section 701.057, Occupations Code, is amended to read as follows:

Sec. 701.057. PRESIDING OFFICER [~~OFFICERS~~]. [~~(a)~~] The presiding officer of the commission [~~governor~~] shall designate a member of the advisory [~~dietitians~~] board as the presiding officer of the advisory board to serve for a term of one year [~~in that capacity at the pleasure of the governor~~]. The presiding officer of the advisory board may vote on any matter before the advisory board.

~~[(b) Not later than the 30th day after the date the governor appoints new board members, the dietitians board shall meet to elect an assistant presiding officer, who holds office according to board rules.]~~

SECTION 1.197. Section 701.058, Occupations Code, is amended to read as follows:

Sec. 701.058. MEETINGS. The advisory ~~[dietitians]~~ board shall meet at the call of the presiding officer of the commission or the executive director ~~[hold at least two regular meetings each year as provided by board rules].~~

SECTION 1.198. Section 701.151, Occupations Code, is amended to read as follows:

Sec. 701.151. GENERAL POWERS AND DUTIES ~~[OF DIETITIANS BOARD]~~. (a) The executive director shall administer and enforce this chapter.

(b) The department ~~[dietitians board]~~ shall:

- (1) adopt an official seal;
- (2) adopt and publish a code of ethics;
- (3) establish the qualifications and fitness of applicants for licenses, including renewed and reciprocal licenses;
- (4) revoke, suspend, or deny a license, probate a license suspension, or reprimand a license holder for a violation of this chapter, a ~~[board]~~ rule adopted under this chapter, or the code of ethics; and

(5) request and receive any necessary assistance from state educational institutions or other state agencies ~~[spend money necessary to properly administer the board's duties; and~~

~~[(6) establish reasonable and necessary fees to administer this chapter].~~

SECTION 1.199. Subchapter D, Chapter 701, Occupations Code, is amended by adding Section 701.1511 to read as follows:

Sec. 701.1511. REGISTRY. The department shall prepare a registry of licensed dietitians and provisional licensed dietitians and make the registry available to the public, license holders, and appropriate state agencies.

SECTION 1.200. Section 701.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 701.154. AMOUNT OF FEES. The commission ~~[(a) After consulting the department, the dietitians board by rule shall set fees in amounts reasonable and necessary to cover the cost of administering this chapter. The fees for issuing or renewing a license must be in amounts designed to allow the department and the dietitians board to recover from the license holders all of the direct and indirect costs to the department and to the dietitians board in administering and enforcing this chapter.~~

~~[(b) The dietitians board]~~ may not set a fee that existed on September 1, 1993, in an amount that is less than the amount of that fee on that date.

SECTION 1.201. Section 701.155, Occupations Code, is amended to read as follows:

Sec. 701.155. SEAL. (a) The commission ~~[dietitians board]~~ by rule may require a license holder to:

- (1) obtain a seal authorized by the department ~~[board]~~ bearing the license holder's name and the legend "Licensed Dietitian"; and

(2) affix the seal to formal documentation of nutrition services provided by the license holder, as determined necessary and appropriate by the department ~~[board]~~.

(b) If the commission ~~[dietitians board]~~ adopts rules under Subsection (a), the rules must authorize a license holder to comply with Subsection (a)(2) by maintaining a facsimile of the license holder's seal on file at the location where services are provided if:

(1) the services are provided:

(A) in a facility licensed under the Health and Safety Code;

(B) on behalf of a local, state, or federal government agency; or

(C) under other circumstances determined reasonable and necessary by the department ~~[board]~~; and

(2) the facsimile is maintained on file at all times during which the services are provided.

SECTION 1.202. The heading to Subchapter E, Chapter 701, Occupations Code, is amended to read as follows:

SUBCHAPTER E. ~~[PUBLIC INTEREST INFORMATION AND]~~ COMPLAINT PROCEDURES

SECTION 1.203. The heading to Section 701.2041, Occupations Code, is amended to read as follows:

Sec. 701.2041. CONFIDENTIALITY OF COMPLAINT AND DISCIPLINARY INFORMATION ~~[SUBPOENAS]~~.

SECTION 1.204. Sections 701.2041(h) and (i), Occupations Code, are amended to read as follows:

(h) All information and materials subpoenaed or compiled by the department ~~[dietitians board]~~ in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department ~~[board]~~ or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the department ~~[board]~~ in a disciplinary action against the holder of a license;

(2) professional dietitian licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the commission ~~[board]~~ under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the department ~~[dietitians board]~~ against a holder of a license, the nature of those charges, disciplinary proceedings of the department, commission, or executive director ~~[board]~~, and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director ~~[board]~~ are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 1.205. Section 701.252, Occupations Code, is amended to read as follows:

Sec. 701.252. LICENSE APPLICATION. (a) Each applicant for a dietitian license must submit an [a sworn] application in the manner and on a form prescribed by the executive director accompanied by the application fee.

(b) The commission [dietitians board shall prescribe the application form and may] by rule shall determine the information and documentation required to be submitted as part of an application [establish dates by which applications and fees must be received].

SECTION 1.206. Sections 701.253(c), (e), and (f), Occupations Code, are amended to read as follows:

(c) The department [dietitians board] shall prepare or approve an examination. An examination prescribed by the department [board] may be or may include an examination given by the Commission on Dietetic Registration or by a national or state testing service instead of an examination prepared by the department or the department's designee [board].

(e) The department [dietitians board] shall administer an examination to qualified applicants at least twice each calendar year.

(f) The department [dietitians board] shall waive the examination requirement for an applicant who, at the time of application, is a dietitian registered by the Commission on Dietetic Registration.

SECTION 1.207. Section 701.254, Occupations Code, is amended to read as follows:

Sec. 701.254. QUALIFICATIONS FOR EXAMINATION. To qualify for the licensing examination under this chapter, an applicant must:

(1) possess a baccalaureate or postbaccalaureate degree, conferred by a college or university regionally accredited at the time of conferral, with:

(A) a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management; or

(B) an equivalent major course of study approved by the department [dietitians board]; and

(2) have completed an internship or preplanned, documented, professional experience program in dietetics practice of not less than 900 hours under the supervision of a licensed dietitian or a registered dietitian approved by the department [board].

SECTION 1.208. Section 701.255(a), Occupations Code, is amended to read as follows:

(a) Not later than the 45th day after the date a properly submitted and timely application is received and not later than the 30th day before the next examination date, the department shall notify an applicant in writing of the receipt and investigation of the applicant's application and any other relevant evidence relating to applicant qualifications established by commission [dietitians board] rule.

SECTION 1.209. Sections 701.2575(a) and (c), Occupations Code, are amended to read as follows:

(a) The department [dietitians board] shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, commission [board] rules under this chapter, and any other applicable laws of this state affecting the applicant's dietetics practice.

(c) The commission ~~[dietitians board]~~ shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 1.210. Section 701.258, Occupations Code, is amended to read as follows:

Sec. 701.258. QUALIFIED PERSON ENTITLED TO LICENSE. The department ~~[dietitians board]~~ shall issue a license ~~[certificate]~~ as a licensed dietitian to a person qualified for a license under this chapter.

SECTION 1.211. Sections 701.259(a), (b), (c), and (d), Occupations Code, are amended to read as follows:

(a) The department ~~[dietitians board]~~ may issue a license to use the title "provisional licensed dietitian" to an applicant who files an application, pays an application fee, and submits evidence of successful completion of the education requirement under Section 701.254.

(b) A provisional licensed dietitian must practice under the supervision and direction of a licensed dietitian. The supervising licensed dietitian must be designated in ~~[sign]~~ the applicant's initial application for a provisional license.

(c) The department ~~[dietitians board]~~ shall issue a license ~~[certificate]~~ as a provisional licensed dietitian to a person qualified for a provisional license under this chapter.

(d) A provisional license expires on the first anniversary of the date of issuance and ~~[if the supervising licensed dietitian signs the renewal application,]~~ may be renewed annually not more than twice ~~[by complying with the renewal procedures under Section 701.301].~~

SECTION 1.212. Section 701.260, Occupations Code, is amended to read as follows:

Sec. 701.260. TEMPORARY LICENSE. (a) On receipt of an application and payment of an application fee, the department ~~[dietitians board]~~ may grant a temporary license to an applicant who:

(1) is licensed in good standing as a dietitian in another state that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination that is recognized by the department ~~[board]~~ and relates to dietetics; and

(3) is sponsored by a person licensed by the department ~~[board]~~ under this chapter with whom the temporary license holder may practice.

(b) The department ~~[dietitians board]~~ may waive the requirement of Subsection (a)(3) if the department ~~[board]~~ determines that compliance with that provision is a hardship to an applicant.

(c) A temporary license is valid until the date the department ~~[dietitians board]~~ approves or denies the temporary license holder's application for a license. The department ~~[board]~~ shall issue a license under this chapter to the holder of a temporary license if:

(1) the temporary license holder passes the competency examination required by Section 701.253;

(2) the department ~~[board]~~ verifies that the temporary license holder meets the academic and experience requirements for a license under this chapter; and

(3) the temporary license holder satisfies any other license requirements under this chapter.

(d) The department ~~[dietitians board]~~ must complete the processing of a temporary license holder's application for a license not later than the 180th day after the date the department ~~[board]~~ issues the temporary license. The department ~~[board]~~ may extend this deadline to receive pending examination results.

SECTION 1.213. Section 701.303, Occupations Code, is amended to read as follows:

Sec. 701.303. CONTINUING EDUCATION. (a) The commission ~~[dietitians board]~~ by rule shall establish a minimum number of hours of continuing education required for license renewal under this chapter.

(b) The commission or department ~~[dietitians board]~~ may assess the continuing education needs of license holders and may require license holders to attend continuing education courses specified by the commission or department ~~[board]~~. The department ~~[board]~~ shall develop a process to evaluate and approve continuing education courses.

(c) The commission or department ~~[dietitians board]~~ shall identify key factors for a license holder's competent performance of professional duties. The department ~~[board]~~ shall adopt a procedure to assess the license holder's participation in continuing education programs.

SECTION 1.214. Section 701.304, Occupations Code, is amended to read as follows:

Sec. 701.304. GROUNDS FOR REFUSING RENEWAL. The commission or department ~~[dietitians board]~~ may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter K, unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 1.215. Section 701.351, Occupations Code, is amended to read as follows:

Sec. 701.351. DISPLAY OF LICENSE ~~[CERTIFICATE]~~. (a) A license holder shall display the person's license ~~[certificate]~~ in an appropriate and public manner as prescribed by commission rule.

(b) A license ~~[certificate]~~ issued by the department ~~[dietitians board]~~ is the property of the department ~~[board]~~ and shall be surrendered on demand.

SECTION 1.216. Section 701.352, Occupations Code, is amended to read as follows:

Sec. 701.352. LICENSE HOLDER INFORMATION. A license holder shall keep the department informed of the license holder's current address as provided by commission rule.

SECTION 1.217. Section 701.353(a), Occupations Code, is amended to read as follows:

(a) A person may not use a seal authorized by the department ~~[dietitians board]~~ unless the person holds a license issued under this chapter.

SECTION 1.218. Section 701.401, Occupations Code, is amended to read as follows:

Sec. 701.401. GROUND FOR DISCIPLINARY ACTION. The commission or executive director ~~[dietitians board]~~ shall refuse to renew a license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter, ~~[or]~~ a rule or code of ethics adopted under this chapter, or an order of ~~[by]~~ the commission or executive director ~~[board]~~.

SECTION 1.219. Section 701.403, Occupations Code, is amended to read as follows:

Sec. 701.403. SANCTIONS. The State Office of Administrative Hearings shall use the schedule of sanctions adopted by the commission by ~~[dietitians board]~~ rule for a sanction imposed as the result of a hearing conducted by the office.

SECTION 1.220. Section 701.502(a), Occupations Code, is amended to read as follows:

(a) The amount of an ~~[the]~~ administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.221. Section 701.512, Occupations Code, is amended to read as follows:

Sec. 701.512. REFUND. (a) Subject to Subsection (b), the commission or executive director ~~[dietitians board]~~ may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The commission or executive director ~~[board]~~ may not require payment of other damages or estimate harm in a refund order.

SECTION 1.222. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 203.006;
- (2) Section 203.051;
- (3) Section 203.053;
- (4) Section 203.054;
- (5) Section 203.057;
- (6) Section 203.058;
- (7) Section 203.060;
- (8) Subchapter C, Chapter 203;
- (9) Section 203.151(b);
- (10) Section 203.1515;
- (11) Section 203.152(a);
- (12) Sections 203.155(a) and (c);
- (13) Section 203.156;
- (14) Section 203.158;

- (15) Section 203.159;
- (16) Section 203.160;
- (17) Section 203.161;
- (18) Subchapter E, Chapter 203;
- (19) Section 203.255(b);
- (20) Section 203.2556;
- (21) Section 203.302;
- (22) Section 203.303;
- (23) Section 203.405;
- (24) Subchapter J, Chapter 203;
- (25) Section 203.502(c);
- (26) Section 203.505(a);
- (27) Section 401.002;
- (28) Section 401.101;
- (29) Section 401.103;
- (30) Section 401.104;
- (31) Section 401.106;
- (32) Section 401.109;
- (33) Section 401.110;
- (34) Subchapter D, Chapter 401;
- (35) Section 401.201(b);
- (36) Sections 401.203(a) and (b);
- (37) Section 401.204;
- (38) Section 401.205;
- (39) Section 401.206;
- (40) Section 401.207;
- (41) Section 401.252;
- (42) Sections 401.253(b), (c), (d), and (e);
- (43) Sections 401.2535(a), (b), (c), (d), (e), (f), and (g);
- (44) Section 401.254;
- (45) Section 401.306;
- (46) Section 401.307(c);
- (47) Section 401.313;
- (48) Section 401.315;
- (49) Sections 401.352(b) and (c);
- (50) Section 401.353;
- (51) Section 401.354;
- (52) Section 401.405;
- (53) Section 401.451(b);
- (54) Section 401.452;
- (55) Section 401.4531;
- (56) Section 401.454;
- (57) Section 401.455;
- (58) Section 401.456;
- (59) Section 401.457;
- (60) Section 401.458;

- (61) Section 401.459;
- (62) Section 401.460;
- (63) Section 401.502;
- (64) Section 401.5022;
- (65) Section 401.551;
- (66) Section 401.553;
- (67) Section 401.554;
- (68) Section 401.555;
- (69) Section 401.556;
- (70) Section 401.557;
- (71) Section 401.558;
- (72) Section 401.559;
- (73) Section 401.560;
- (74) Section 401.561;
- (75) Section 402.002;
- (76) Section 402.052;
- (77) Section 402.053;
- (78) Section 402.054;
- (79) Section 402.056;
- (80) Section 402.0581;
- (81) Section 402.059;
- (82) Section 402.060;
- (83) Section 402.061;
- (84) Section 402.102;
- (85) Section 402.1022;
- (86) Sections 402.103(a) and (b);
- (87) Section 402.105;
- (88) Section 402.106;
- (89) Section 402.151;
- (90) Section 402.1511;
- (91) Section 402.153;
- (92) Sections 402.154(a), (b), (c), (d), (e), (f), and (g);
- (93) Section 402.205(d);
- (94) Section 402.206;
- (95) Sections 402.209(b) and (g);
- (96) Section 402.257(b);
- (97) Sections 402.301(b), (c), (d), and (e);
- (98) Section 402.303(f);
- (99) Section 402.354;
- (100) Section 402.452;
- (101) Section 402.502;
- (102) Section 402.503;
- (103) Section 402.504;
- (104) Section 402.505;
- (105) Section 402.506;
- (106) Sections 402.551(a) and (c);

- (107) Section 402.552;
- (108) Section 402.5522;
- (109) Section 402.553(b);
- (110) Section 403.002;
- (111) Section 403.053;
- (112) Section 403.109;
- (113) Section 403.201;
- (114) Section 403.205;
- (115) Section 403.206;
- (116) Section 403.208;
- (117) Section 403.210;
- (118) Section 403.211;
- (119) Section 403.252;
- (120) Section 451.051(a);
- (121) Section 451.0511;
- (122) Section 451.0512;
- (123) Section 451.0513;
- (124) Section 451.052;
- (125) Section 451.054;
- (126) Section 451.057;
- (127) Sections 451.101(b) and (c);
- (128) Section 451.1015;
- (129) Section 451.1016;
- (130) Section 451.102;
- (131) Section 451.103;
- (132) Section 451.1035;
- (133) Section 451.104;
- (134) Section 451.105;
- (135) Section 451.106;
- (136) Section 451.108;
- (137) Section 451.109;
- (138) Sections 451.110(a), (b), (c), (d), (e), (f), and (g);
- (139) Section 451.155;
- (140) Section 451.201(b);
- (141) Section 451.202;
- (142) Section 451.203;
- (143) Section 451.204;
- (144) Section 451.2512;
- (145) Section 451.252;
- (146) Section 451.253;
- (147) Section 451.254;
- (148) Section 451.255;
- (149) Sections 451.351(a), (b), (c), (e), (f), (g), (h), (i), (j), (k), and (l);
- (150) Section 451.352;
- (151) Section 605.003;
- (152) Section 605.051;

- (153) Section 605.053;
- (154) Section 605.054;
- (155) Section 605.057;
- (156) Section 605.058;
- (157) Section 605.059(a);
- (158) Section 605.060;
- (159) Section 605.061;
- (160) Subchapter C, Chapter 605;
- (161) Section 605.152;
- (162) Section 605.153;
- (163) Section 605.154;
- (164) Section 605.201;
- (165) Section 605.202;
- (166) Sections 605.2021(a), (b), (c), (d), (e), (f), and (g);
- (167) Section 605.203;
- (168) Section 605.253;
- (169) Section 605.254(b);
- (170) Section 605.255(c);
- (171) Section 605.259(b);
- (172) Section 605.3535;
- (173) Section 605.355;
- (174) Section 605.401;
- (175) Section 605.403;
- (176) Section 605.404;
- (177) Section 605.405;
- (178) Section 605.406;
- (179) Section 605.407;
- (180) Section 605.408;
- (181) Section 605.409;
- (182) Section 605.410;
- (183) Section 605.411;
- (184) Section 701.003;
- (185) Section 701.052;
- (186) Section 701.053;
- (187) Section 701.055;
- (188) Section 701.056;
- (189) Section 701.059;
- (190) Subchapter C, Chapter 701;
- (191) Section 701.152;
- (192) Section 701.153;
- (193) Section 701.1535;
- (194) Section 701.156;
- (195) Section 701.157;
- (196) Section 701.159;
- (197) Section 701.160;
- (198) Section 701.161;

- (199) Section 701.201;
- (200) Section 701.202;
- (201) Section 701.203;
- (202) Section 701.204;
- (203) Sections 701.2041(a), (b), (c), (d), (e), (f), and (g);
- (204) Section 701.205;
- (205) Section 701.206;
- (206) Section 701.256;
- (207) Section 701.261;
- (208) Sections 701.301(b), (c), (d), (e), and (f);
- (209) Section 701.302;
- (210) Section 701.402;
- (211) Section 701.404;
- (212) Section 701.405;
- (213) Section 701.406;
- (214) Section 701.407;
- (215) Section 701.408;
- (216) Section 701.452;
- (217) Section 701.453;
- (218) Section 701.501;
- (219) Section 701.502(c);
- (220) Section 701.503;
- (221) Section 701.504;
- (222) Section 701.505;
- (223) Section 701.506;
- (224) Section 701.507;
- (225) Section 701.508;
- (226) Section 701.509;
- (227) Section 701.510; and
- (228) Section 701.511.

PART 2. TRANSFERS DURING BIENNIUM ENDING AUGUST 31, 2019

SECTION 1.223. Sections 106.115(a), (b-1), and (b-3), Alcoholic Beverage Code, are amended to read as follows:

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Texas Department of Licensing and Regulation [~~State Health Services~~] under this section or a drug and alcohol driving awareness program approved by the Texas Education Agency. On conviction of a minor of an offense under one or more of those sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend an alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an alcohol awareness program or a drug and alcohol driving awareness program

described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The Texas Department of Licensing and Regulation or Texas Commission of Licensing and Regulation, as appropriate [~~State Health Services~~]:

(1) is responsible for the administration of the certification of approved alcohol awareness programs;

(2) may charge a nonrefundable application fee for:

(A) initial certification of the approval; or

(B) renewal of the certification;

(3) shall adopt rules regarding alcohol awareness programs approved under this section; and

(4) shall monitor, coordinate, and provide training to a person who provides an alcohol awareness program.

(b-1) If the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, the court may allow the defendant to take an online alcohol awareness program if the Texas Department of Licensing and Regulation [~~State Health Services~~] approves online courses or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by the Texas Department of Licensing and Regulation [~~State Health Services~~] under Subsection (b-3) instead of attending the alcohol awareness program. Community service ordered under this subsection is in addition to community service ordered under Section 106.071(d).

(b-3) The Texas Department of Licensing and Regulation [~~State Health Services~~] shall create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge may sentence a defendant under Subsection (b-1).

SECTION 1.224. Sections 13(h) and (j), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Department of Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~], the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Department of Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~] shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Department of Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~] is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later

than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(j) The judge shall require a defendant who is punished under Section 49.09, Penal Code, as a condition of community supervision, to attend and successfully complete an educational program for repeat offenders approved by the Texas Department of Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~]. The Texas Commission of Licensing and Regulation [~~on Alcohol and Drug Abuse~~] shall adopt rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Department of Licensing and Regulation [~~Commission on Alcohol and Drug Abuse~~] is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for initial certification of approval or for renewal of the certification. The judge may waive the educational program requirement only if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and

whether the defendant resides out of state or does not have access to transportation. The judge shall set out the finding of good cause in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the defendant's driving record. The report must include the beginning date of the defendant's community supervision. On the defendant's successful completion of the educational program for repeat offenders, the defendant's instructor shall give notice to the Department of Public Safety for inclusion in the defendant's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program for repeat offenders within the period required by the judge, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the defendant from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code.

SECTION 1.225. Section 401.501, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (2) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(2) "Executive director" means the executive director of the department.

SECTION 1.226. Subchapter M, Chapter 401, Health and Safety Code, is amended by adding Section 401.5011 to read as follows:

Sec. 401.5011. GENERAL POWERS AND DUTIES. The executive director shall administer and enforce this chapter.

SECTION 1.227. Section 401.502, Health and Safety Code, is amended to read as follows:

Sec. 401.502. EXAMINATION. The commission ~~[executive commissioner]~~ may adopt rules to govern the development and administration of an examination for an applicant under this subchapter.

SECTION 1.228. Section 401.503, Health and Safety Code, is amended to read as follows:

Sec. 401.503. APPLICATION PROCESS. (a) An application for a certificate or license under this subchapter must be submitted in the manner and [made] on a form prescribed ~~[and provided]~~ by the executive director [department].

(b) The application must require an applicant to provide sworn statements relating to the applicant's education and to provide other information required by the commission [department].

SECTION 1.229. Section 401.505(a), Health and Safety Code, is amended to read as follows:

(a) An applicant for a laser hair removal professional certificate must:

(1) be certified by a recognized certifying agency, including the Society for Clinical and Medical Hair Removal or another certification entity approved by the department;

(2) meet the requirements for a senior laser hair removal technician certificate under Section 401.506; and

(3) pass an examination required ~~administered~~ by the department.

SECTION 1.230. The heading to Section 401.512, Health and Safety Code, is amended to read as follows:

Sec. 401.512. TERM ~~RENEWAL~~ OF CERTIFICATE OR LICENSE.

SECTION 1.231. Section 401.512(a), Health and Safety Code, is amended to read as follows:

(a) A certificate or license expires on the second anniversary of the date of issuance and may be renewed.

SECTION 1.232. Section 401.515(b), Health and Safety Code, is amended to read as follows:

(b) The commission ~~executive commissioner~~ shall adopt rules relating to the customer notice.

SECTION 1.233. Sections 401.516(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A laser hair removal facility shall post a warning sign as prescribed by the commission ~~department~~ in a conspicuous location readily visible to a person entering the facility. The sign must provide a toll-free telephone number and e-mail address for the department and inform the customer that the customer may contact ~~call~~ the department.

(b) The commission ~~executive commissioner~~ shall adopt rules specifying the size, content, and design of the sign, with wording listing the potential dangers involved.

SECTION 1.234. Section 401.518(a), Health and Safety Code, is amended to read as follows:

(a) A laser hair removal facility operator is responsible for maintaining the laser hair removal facility's compliance with the requirements of this subchapter and commission ~~department~~ rules relating to laser and pulsed light devices.

SECTION 1.235. Section 401.519(b), Health and Safety Code, is amended to read as follows:

(b) Under the rules of the commission ~~department~~, a laser hair removal facility must document with the department the facility's contractual relationship with the consulting physician.

SECTION 1.236. Section 401.521(b), Health and Safety Code, is amended to read as follows:

(b) A person who violates Subsection (a) is practicing medicine in violation of Subtitle B, Title 3, Occupations Code, and is subject to the penalties under that subtitle and Subchapter F, Chapter 51, Occupations Code ~~under Section 401.522~~.

SECTION 1.237. The heading to Section 401.522, Health and Safety Code, is amended to read as follows:

Sec. 401.522. AMOUNT OF ADMINISTRATIVE PENALTY ~~ENFORCEMENT; PENALTIES~~.

SECTION 1.238. Section 401.522(a), Health and Safety Code, is amended to read as follows:

(a) The amount of ~~[department may impose]~~ an administrative penalty imposed for a violation of this subchapter or a rule adopted or order issued ~~[on a person who violates this subchapter or a rule adopted]~~ under this subchapter~~[-The amount of the penalty]~~ may not exceed \$5,000 for each violation.

SECTION 1.239. Section 455.001, Occupations Code, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(2) "Executive director" [commissioner] means the executive director [commissioner] of the department [Health and Human Services Commission].

SECTION 1.240. The heading to Subchapter B, Chapter 455, Occupations Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES ~~[OF EXECUTIVE COMMISSIONER]~~

SECTION 1.241. Section 455.053, Occupations Code, is amended to read as follows:

Sec. 455.053. RULES REGARDING MASSAGE SCHOOLS. Rules adopted under this chapter relating to a massage school must contain minimum standards for:

(1) the issuance, denial, renewal, suspension, revocation, or probation of a license under this chapter;

(2) the qualifications of professional personnel;

(3) the supervision of professional personnel;

(4) the equipment essential to the education, health, and safety of students, massage school personnel, and the public;

(5) the sanitary and hygienic conditions of a massage school;

(6) the provision of massage therapy or other massage services by a massage school or student;

(7) the maximum number of hours a student may accumulate in a massage school's internship program before the student is required to be licensed under this chapter;

(8) the educational and clinical records kept by a massage school;

(9) the organizational structure of a massage school, including the lines of authority and the delegation of responsibility;

(10) fire prevention and safety in a massage school;

(11) the massage school's curriculum and educational material;

(12) massage school inspections; and

(13) any other aspect of the operation of a massage school that the commission ~~[executive commissioner]~~ considers necessary to protect students, massage school personnel, or the public.

SECTION 1.242. The heading to Subchapter C, Chapter 455, Occupations Code, is amended to read as follows:

SUBCHAPTER C. POWERS AND DUTIES ~~[OF DEPARTMENT]~~

SECTION 1.243. Section 455.101, Occupations Code, is amended to read as follows:

Sec. 455.101. GENERAL POWERS AND DUTIES ~~[OF DEPARTMENT]~~.

(a) The executive director ~~[department]~~ shall ~~+~~
~~[(+)]~~ administer and enforce this chapter.

(b) The department shall:

(1) ~~+~~

~~[(2)]~~ investigate a person who may be engaging in a practice that violates this chapter;

(2) ~~[(3)]~~ regulate the number and content of school hours provided by a massage school or a massage therapy instructor; and

(3) ~~[(4)]~~ prepare and administer a state examination under this chapter.

SECTION 1.244. Section 455.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.103. MEMORANDUM OF UNDERSTANDING REGARDING MASSAGE SCHOOLS. (a) The commission ~~[department]~~ may enter into a memorandum of understanding with the Texas Education Agency to regulate massage schools.

(b) A memorandum must:

(1) be adopted by the commission ~~[executive commissioner]~~ by rule; and

(2) limit the total amount of the fees charged by the department and the Texas Education Agency for licensing a massage school to an amount equal to the amount of the fees the department would charge for licensing the massage school in the absence of the memorandum.

SECTION 1.245. Section 455.151(d), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(d) The department may issue one or more types of licenses not otherwise provided for by this chapter that authorize the license holder to perform a service described by Subsection (c). The commission ~~[executive commissioner]~~ may adopt rules governing a license issued under this subsection.

SECTION 1.246. Section 455.153, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.153. APPLICATION FOR LICENSE. An applicant for a license under this chapter must:

(1) submit an application in the manner and on a form prescribed ~~[provided]~~ by the executive director ~~[department]~~; and

(2) include with the application the application fee set by the commission ~~[executive commissioner]~~ by rule.

SECTION 1.247. Sections 455.1572(c) and (e), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(c) A provisional license is valid until the date the department approves or denies the provisional license holder's application for licensing. The department shall issue a license under this chapter to the provisionally licensed person if the person:

(1) is eligible for a license under Section 51.404 ~~[455.1571]~~; or

(2) passes the part of the examination under Section 455.101 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of massage therapy in this state and:

(A) the department verifies that the person meets the academic and experience requirements for licensing under this chapter; and

(B) the person satisfies any other licensing requirements under this chapter.

(e) The commission ~~[executive commissioner]~~ by rule may establish a fee for a provisional license.

SECTION 1.248. The heading to Section 455.160, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.160. LICENSE TERM AND RENEWAL.

SECTION 1.249. Section 455.160(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A license issued under this chapter is valid for two years. A license holder must renew the license biennially. ~~[The license expires unless the license holder submits an application for renewal accompanied by the renewal fee prescribed by the executive commissioner by rule or by the late fee prescribed by this section.]~~

SECTION 1.250. Sections 455.203(a) and (b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) A massage school must meet the minimum standards of operation established by commission ~~[department]~~ rule.

(b) An instructor must meet the minimum requirements established by commission ~~[department]~~ rule.

SECTION 1.251. Section 455.251, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 455.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. (a) The commission or executive director ~~[department]~~ may refuse to issue a license to a person and shall suspend, revoke, or refuse to renew the license of a person or shall reprimand a person licensed under this chapter if the person:

(1) obtains a license by fraud, misrepresentation, or concealment of material facts;

(2) sells, barter, or offers to sell or barter a license;

(3) violates a rule adopted by the commission ~~[executive commissioner]~~ under this chapter;

(4) engages in unprofessional conduct as defined by commission ~~[department]~~ rule that endangers or is likely to endanger the health, welfare, or safety of the public;

(5) violates an order or ordinance adopted by a political subdivision under Chapter 243, Local Government Code; or

(6) violates this chapter.

(b) The commission or executive director [~~department~~] shall revoke the license of a person licensed as a massage therapist or massage therapy instructor if:

(1) the person is convicted of, enters a plea of nolo contendere or guilty to, or receives deferred adjudication for an offense involving prostitution or another sexual offense; or

(2) the commission or executive director [~~department~~] determines the person has practiced or administered massage therapy at or for a sexually oriented business.

(c) The commission or executive director [~~department~~] shall revoke the license of a person licensed as a massage school or massage establishment if the commission or executive director [~~department~~] determines that:

(1) the school or establishment is a sexually oriented business; or

(2) an offense involving prostitution or another sexual offense that resulted in a conviction for the offense, a plea of nolo contendere or guilty to the offense, or a grant of deferred adjudication for the offense occurred on the premises of the school or establishment.

SECTION 1.252. The heading to Section 455.302, Occupations Code, is amended to read as follows:

Sec. 455.302. AMOUNT OF ADMINISTRATIVE PENALTY.

SECTION 1.253. Section 455.302(a), Occupations Code, is amended to read as follows:

(a) The amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$1,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

SECTION 1.254. Section 1952.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Subdivision (2-a) and amending Subdivisions (3) and (4) to read as follows:

(2-a) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation [~~State Health Services~~].

(4) "Executive director [~~commissioner~~]" means the executive director [~~commissioner~~] of the department [~~Health and Human Services Commission~~].

SECTION 1.255. The heading to Subchapter B, Chapter 1952, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [~~OF EXECUTIVE COMMISSIONER AND DEPARTMENT~~]

SECTION 1.256. Section 1952.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1952.051. GENERAL POWERS AND DUTIES [~~RULES~~]. (a) The executive director shall administer and enforce this chapter.

(b) The commission [~~executive commissioner~~] by rule shall[=

[~~(H)~~] adopt standards and education requirements consistent with those established under Chapter 654, Government Code, for the registration of:

(1) [~~(A)~~] code enforcement officers; and

(2) [~~(B)~~] code enforcement officers in training[~~;~~ and

~~[(2) prescribe application forms for original and renewal certificates of registration].~~

SECTION 1.257. Section 1952.053(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The register must include:

(1) the name, residence, date of birth, and social security number of the applicant;

(2) the name and address of the employer or business of the applicant;

(3) the date of the application;

(4) the education and experience qualifications of the applicant;

(5) the action taken by the department regarding the application and the date of the action;

(6) the serial number of any certificate of registration issued to the applicant; and

(7) any other information required by commission [~~department~~] rule.

SECTION 1.258. Subchapter B, Chapter 1952, Occupations Code, is amended by adding Section 1952.055 to read as follows:

Sec. 1952.055. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.259. Section 1952.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1952.102. ELIGIBILITY TO REGISTER AS CODE ENFORCEMENT OFFICER. To be eligible to receive a certificate of registration as a code enforcement officer, a person must:

(1) submit an application in the manner and on the form prescribed by the executive director;

(2) have at least one year of full-time experience in the field of code enforcement;

(3) [~~(2)~~] pass the examination required [~~conducted~~] by the department [~~or the department's designee~~];

(4) [~~(3)~~] pay the application, examination, and registration fees; and

(5) [~~(4)~~] meet any other requirements prescribed by this chapter or by commission [~~department~~] rule.

SECTION 1.260. Section 1952.103(a), Occupations Code, is amended to read as follows:

(a) An applicant for a certificate of registration under this chapter who has less than one year of full-time experience in code enforcement is entitled to receive a certificate of registration as a code enforcement officer in training on:

(1) passing the examination described by Section 1952.102(3) [~~1952.102(2)~~]; ~~[and]~~

(2) paying the required fees; and

(3) meeting any other requirement prescribed by this chapter or by commission rule.

SECTION 1.261. The heading to Section 1952.105, Occupations Code, is amended to read as follows:

Sec. 1952.105. TERM [~~RENEWAL OR REINSTATEMENT~~] OF CERTIFICATE; RENEWAL.

SECTION 1.262. Section 1952.105(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A certificate of registration issued under this chapter expires on the second anniversary of the date of issuance and may be renewed biennially on payment of the required renewal fee and on completion of the continuing education requirements prescribed by commission [~~department~~] rule.

SECTION 1.263. Section 1952.1051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1952.1051. CONTINUING EDUCATION. The commission [~~executive commissioner~~] by rule shall prescribe continuing education requirements for code enforcement officers and code enforcement officers in training that:

(1) establish the number of hours of continuing education required for renewal of a certificate of registration;

(2) establish an approved curriculum that includes material regarding changes in applicable law; and

(3) provide that the approved curriculum may be taught by suitable public agencies and by private entities approved by the department.

SECTION 1.264. Section 1952.151, Occupations Code, is amended to read as follows:

Sec. 1952.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The commission or executive director [~~department~~] may deny a person's application for a certificate of registration if the person's certificate or license to engage in code enforcement or a related profession has been revoked by another licensing entity in this state or another state for:

(1) unprofessional conduct;

(2) fraud, deceit, or negligence; or

(3) misconduct in the practice of code enforcement or a related profession.

(b) The commission or executive director [~~department~~] shall suspend or revoke a certificate of registration issued under this chapter if the commission or executive director [~~department~~] determines that the certificate holder:

(1) engaged in fraud or deceit in obtaining a certificate; or

(2) is grossly negligent, incompetent, or guilty of misconduct in the practice of code enforcement.

SECTION 1.265. Section 1952.252(a), Occupations Code, is amended to read as follows:

(a) The amount of an ~~the~~ administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.266. Section 1953.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation [State Health Services].

(2) "Executive director [commissioner]" means the executive director [commissioner] of the department [Health and Human Services Commission].

SECTION 1.267. The heading to Subchapter B, Chapter 1953, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES ~~[OF EXECUTIVE COMMISSIONER AND DEPARTMENT]~~

SECTION 1.268. Section 1953.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.051. GENERAL POWERS AND DUTIES ~~[OF DEPARTMENT]~~.

(a) The executive director shall administer and enforce this chapter.

(b) The department shall:

(1) administer continuing education requirements; and

(2) prescribe necessary forms.

SECTION 1.269. Subchapter B, Chapter 1953, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Section 1953.0512 to read as follows:

Sec. 1953.0512. ADVISORY COMMITTEE. The department may establish an advisory committee to provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

SECTION 1.270. Section 1953.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.102. **ELIGIBILITY REQUIREMENTS.** (a) To be eligible to receive a certificate of registration as a professional sanitarian, a person must:

(1) hold at least a bachelor's degree from an accredited college or university that includes at least 30 semester hours in basic or applied science;

(2) complete any additional training in the basic sciences or public health the department ~~[executive commissioner]~~ determines necessary to effectively serve as a professional sanitarian; and

(3) have at least two years of full-time experience in sanitation.

(b) The commission ~~[executive commissioner]~~ by rule may establish other qualifications for registration.

SECTION 1.271. Section 1953.104(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The department shall issue a certificate of registration as a professional sanitarian to a person who:

(1) applies in the manner and on the form prescribed by the executive director ~~[department]~~;

(2) pays the registration fee set by the commission ~~[executive commissioner]~~ by rule;

(3) meets the eligibility requirements prescribed by Section 1953.102; and

(4) passes an examination under Subchapter D.

SECTION 1.272. Section 1953.105(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The department shall issue a certificate of registration as a sanitarian in training to a person who:

(1) is employed in sanitation;

(2) meets the eligibility requirements prescribed by Section 1953.102, other than the requirements relating to experience;

(3) pays a registration fee prescribed by the commission ~~[executive commissioner]~~ by rule for a sanitarian in training; and

(4) passes an examination under Subchapter D.

SECTION 1.273. The heading to Section 1953.106, Occupations Code, is amended to read as follows:

Sec. 1953.106. RENEWAL ~~[OR REINSTATEMENT]~~ OF CERTIFICATE.

SECTION 1.274. Section 1953.106(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) To renew a certificate of registration under this chapter, a professional sanitarian must:

(1) pay to the department a renewal fee prescribed by the commission ~~[executive commissioner]~~ by rule; and

(2) provide proof of completion of continuing education requirements ~~[contact hours as]~~ prescribed by the commission by rule ~~[executive commissioner]~~.

SECTION 1.275. Section 1953.151(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) An applicant for a certificate of registration may not take the examination unless the applicant pays the examination fee prescribed by the commission ~~[executive commissioner]~~ by rule.

SECTION 1.276. Section 1953.201, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1953.201. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

(a) The commission or executive director ~~[department]~~ may deny a person's application for a certificate of registration if:

(1) the person's certificate or license to engage in a profession in this state or elsewhere has been revoked for unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of the profession; or

(2) satisfactory proof is presented to the commission or executive director ~~[department]~~ establishing that the person has been found guilty of unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of a profession.

(b) The commission or executive director ~~[department]~~ may suspend or revoke a certificate of registration if the certificate holder:

(1) practiced fraud or deceit in obtaining the certificate; or

(2) acted in a manner constituting gross negligence, incompetency, or misconduct in the practice of sanitation.

SECTION 1.277. Section 1953.302(a), Occupations Code, is amended to read as follows:

(a) The amount of an ~~an~~ ~~[the]~~ administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

SECTION 1.278. Section 1958.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (1) and (2) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation ~~[State Health Services]~~.

(2) "Executive director ~~[commissioner]~~" means the executive director ~~[commissioner]~~ of the department ~~[Health and Human Services Commission]~~.

SECTION 1.279. Section 1958.051, Occupations Code, is amended to read as follows:

Sec. 1958.051. GENERAL POWERS AND DUTIES ~~[OF DEPARTMENT; SCOPE OF AUTHORITY]~~. The executive director ~~[department]~~ shall administer and enforce this chapter to protect the public from the adverse health effects of mold.

SECTION 1.280. Section 1958.054, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.054. RULES REGARDING PERFORMANCE STANDARDS AND WORK PRACTICES. The commission ~~[executive commissioner]~~ by rule shall establish minimum performance standards and work practices for conducting a mold assessment or mold remediation in this state.

SECTION 1.281. Section 1958.056(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The commission ~~[executive commissioner]~~ shall adopt rules regarding compliance investigations.

SECTION 1.282. Section 1958.058, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.058. SAFETY STANDARDS. The commission [~~executive commissioner~~] by rule may develop and establish mold safety standards for license holders if appropriate scientific information exists regarding the effect of mold.

SECTION 1.283. Section 1958.059, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.059. CODE OF ETHICS. The commission [~~executive commissioner~~] by rule shall adopt a code of ethics for license holders that promotes the education of mold assessors and mold remediators concerning the ethical, legal, and business principles that should govern their conduct.

SECTION 1.284. Section 1958.101(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The commission [~~executive commissioner~~] shall adopt rules regarding:

(1) the scope of mold-related work for which a license is required, including the supervision of employees or other persons by license holders; and

(2) renewal requirements for a license issued under this chapter.

SECTION 1.285. Section 1958.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.103. REGISTRATION REQUIREMENTS FOR EMPLOYEES. The commission [~~executive commissioner~~] may adopt rules to require the registration of employees supervised by license holders.

SECTION 1.286. Section 1958.104, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The commission [~~executive commissioner~~] shall adopt rules regarding a license application. The commission [~~executive commissioner~~] shall adopt rules that establish minimum requirements for a license, including:

(1) the type of license;

(2) the qualifications for the license, including any previous training required under Section 1958.106;

(3) renewal requirements for the license, including ongoing continuing education required under Section 1958.106; and

(4) liability insurance requirements for the license.

SECTION 1.287. Section 1958.106(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The commission [~~executive commissioner~~] shall adopt rules regarding training required under this chapter and continuing education required for a license holder under this chapter.

SECTION 1.288. Section 1958.153(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) The commission ~~[executive commissioner]~~ shall adopt rules to implement this section, including rules:

- (1) describing the information that must be provided in the notice; and
- (2) authorizing verbal notification to the department in an emergency.

SECTION 1.289. Section 1958.154(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) The commission ~~[executive commissioner]~~ shall adopt rules to implement this section, other than rules described by Subsection (d).

SECTION 1.290. Section 1958.155(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) A license holder who is not an individual shall disclose to the department the name, address, and occupation of each person that has an ownership interest in the license holder. The license holder shall report any changes in ownership to the department. The commission ~~[executive commissioner]~~ shall adopt rules to implement this section, including rules regarding the form of the disclosure and the time required to make disclosures or to report a change in ownership.

SECTION 1.291. Section 1958.201, Occupations Code, is amended to read as follows:

Sec. 1958.201. DISCIPLINARY ACTION. If a license holder violates this chapter or an order or rule adopted under this chapter, the commission or executive director ~~[department]~~, after providing the person with notice and an opportunity for a hearing, shall take one or more of the following actions:

- (1) revoke, suspend, or refuse to renew the license;
- (2) impose an administrative penalty;
- (3) bring an action to collect a civil penalty; or
- (4) reprimand the person.

SECTION 1.292. Section 1958.252, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 1958.252. AMOUNT OF PENALTY. (a) The amount of an administrative penalty imposed for a violation of this chapter or a rule adopted or order issued under this chapter may not exceed \$5,000 for each violation. Each day a violation continues under Section 1958.101 or 1958.155 may be considered a separate violation for purposes of imposing a penalty.

(b) The amount shall be based on ~~[In determining the amount of the penalty, the department shall consider]~~:

- (1) whether the violation was committed knowingly, intentionally, or fraudulently;
- (2) the seriousness of the violation;
- (3) any hazard created to the health and safety of the public;
- (4) the person's history of previous violations; and
- (5) any other matter that justice may require.

SECTION 1.293. Section 1958.253(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The commission or executive director ~~[department]~~ may choose not to impose an administrative penalty under this subchapter if, not later than the 10th day after the date of written notice of the violation ~~[under Section 1958.254]~~, the person provides conclusive evidence that the circumstances giving rise to the violation have been corrected and all actual damages are paid.

SECTION 1.294. Section 521.374(a), Transportation Code, is amended to read as follows:

(a) A person whose license is suspended under Section 521.372 may attend an educational program, approved by the Texas Department of Licensing and Regulation ~~[Commission on Alcohol and Drug Abuse]~~ under rules adopted by the Texas Commission of Licensing and Regulation ~~[commission]~~ and the department, that is designed to educate persons on the dangers of drug abuse.

SECTION 1.295. Section 521.375, Transportation Code, is amended to read as follows:

Sec. 521.375. JOINT ADOPTION OF RULES. (a) The Texas Commission of Licensing and Regulation ~~[on Alcohol and Drug Abuse]~~ and the department shall jointly adopt rules for the qualification and approval of providers of educational programs under Section 521.374.

(b) The Texas Department of Licensing and Regulation ~~[Commission on Alcohol and Drug Abuse]~~ shall publish the jointly adopted rules.

SECTION 1.296. Section 521.376, Transportation Code, is amended to read as follows:

Sec. 521.376. DUTIES OF TEXAS DEPARTMENT OF LICENSING AND REGULATION ~~[COMMISSION ON ALCOHOL AND DRUG ABUSE]~~; APPLICATION AND RENEWAL FEES. The Texas Department of Licensing and Regulation ~~[Commission on Alcohol and Drug Abuse]~~:

(1) shall monitor, coordinate, and provide training to persons who provide educational programs under Section 521.374;

(2) shall administer the approval of those educational programs; and

(3) may charge a nonrefundable application fee for:

(A) initial certification of approval; and

(B) renewal of the certification.

SECTION 1.297. The following provisions of the Health and Safety Code are repealed:

(1) Section 401.509;

(2) Section 401.511;

(3) Sections 401.512(b) and (c); and

(4) Sections 401.522(b) and (c).

SECTION 1.298. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

(1) Section 455.051;

(2) Section 455.056;

- (3) Section 455.057;
- (4) Section 455.058;
- (5) Section 455.1565;
- (6) Section 455.1571;
- (7) Sections 455.160(b), (c), (d), (e), (f), and (g);
- (8) Section 455.161;
- (9) Section 455.252;
- (10) Section 455.253;
- (11) Section 455.254;
- (12) Section 455.301;
- (13) Section 455.303;
- (14) Section 455.304;
- (15) Section 455.305;
- (16) Section 455.306;
- (17) Section 455.307;
- (18) Section 455.308;
- (19) Section 455.309;
- (20) Section 455.310;
- (21) Section 455.311;
- (22) Section 1952.052;
- (23) Section 1952.054;
- (24) Section 1952.105(b);
- (25) Section 1952.152;
- (26) Section 1952.251;
- (27) Section 1952.253;
- (28) Section 1952.254;
- (29) Section 1952.255;
- (30) Section 1952.256;
- (31) Section 1952.257;
- (32) Section 1952.258;
- (33) Section 1952.259;
- (34) Section 1952.260;
- (35) Section 1952.261;
- (36) Section 1953.0511;
- (37) Section 1953.052;
- (38) Section 1953.054;
- (39) Section 1953.055;
- (40) Section 1953.103;
- (41) Section 1953.106(b);
- (42) Section 1953.152;
- (43) Section 1953.202;
- (44) Section 1953.301;
- (45) Section 1953.303;
- (46) Section 1953.304;
- (47) Section 1953.305;
- (48) Section 1953.306;

- (49) Section 1953.307;
- (50) Section 1953.308;
- (51) Section 1953.309;
- (52) Section 1953.310;
- (53) Section 1953.311;
- (54) Section 1958.053;
- (55) Section 1958.055(a);
- (56) Section 1958.057;
- (57) Section 1958.107;
- (58) Section 1958.251;
- (59) Section 1958.254;
- (60) Section 1958.255;
- (61) Section 1958.256;
- (62) Section 1958.257;
- (63) Section 1958.258; and
- (64) Section 1958.302.

PART 3. TRANSITION PROVISIONS

SECTION 1.299. (a) A rule or fee of the Department of State Health Services that relates to a program transferred under this article and that is in effect on the effective date of the transfer remains in effect until changed by the Texas Commission of Licensing and Regulation.

(b) A license, permit, certificate of registration, or other authorization issued by the Department of State Health Services for a program transferred under this article is continued in effect as a license, permit, certificate, or other authorization of the Texas Department of Licensing and Regulation after the effective date of the transfer.

(c) A complaint, investigation, contested case, or other proceeding before the Department of State Health Services relating to a program transferred under this article that is pending on the effective date of the transfer is transferred without change in status to the Texas Commission of Licensing and Regulation or Texas Department of Licensing and Regulation, as appropriate.

SECTION 1.300. (a) As soon as practicable after the effective date of a transfer under this article, the Department of State Health Services and the Texas Department of Licensing and Regulation shall adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this article. The transition plan must provide for the transfer to be completed:

- (1) not later than August 31, 2017, for a program transferred under Part 1 of this article; or
- (2) not later than August 31, 2019, for a program transferred under Part 2 of this article.

(b) The Department of State Health Services shall provide the Texas Department of Licensing and Regulation with access to any systems or information necessary for the Texas Department of Licensing and Regulation to accept a program transferred under this article.

(c) On the date specified in the transition plan required under Subsection (a) of this section for the transfer of a particular program to the Texas Department of Licensing and Regulation, if applicable, the existing board associated with the program is abolished and the Texas Department of Licensing and Regulation shall, as soon as practicable after that date, appoint the advisory board for the program.

(d) On the date specified in the transition plan required under Subsection (a) of this section for the transfer of a particular program to the Texas Department of Licensing and Regulation, all full-time equivalent employee positions at the Department of State Health Services that primarily concern the administration or enforcement of the program being transferred become positions at the Texas Department of Licensing and Regulation. The Texas Department of Licensing and Regulation shall post the positions for hiring and, when filling the positions, shall give consideration to, but is not required to hire, an applicant who, immediately before the date of the transfer, was an employee at the Department of State Health Services primarily involved in administering or enforcing the transferred program.

(e) Not later than August 31, 2017, the Texas Department of Licensing and Regulation shall create a health professions division to oversee programs transferred under this article and to ensure the department develops the necessary health-related expertise.

SECTION 1.301. (a) The Texas Department of Licensing and Regulation shall, not later than December 1 of each year, submit a report regarding the implementation of this article with respect to that calendar year to:

- (1) the Sunset Advisory Commission;
- (2) each standing committee of the senate and house of representatives having primary jurisdiction over matters related to health and human services or the occupational licensing of health-related professions; and
- (3) each advisory board or committee established to advise the Texas Department of Licensing and Regulation with regard to a program transferred to the department under this article.

(b) A report submitted under this section must include:

- (1) detailed information regarding:
 - (A) the status of the implementation of the transition plan adopted under Section 1.300 of this Act, including an explanation of any delays or challenges in implementing the plan;
 - (B) appointments to each advisory board or committee established to advise the Texas Department of Licensing and Regulation with regard to a program transferred to the department under this article; and
 - (C) the establishment and operation of the health professions division of the Texas Department of Licensing and Regulation; and

- (2) any other information the Texas Department of Licensing and Regulation considers relevant to the transfer of programs to the department under this article.

(c) In preparing a report required by this section, the Texas Department of Licensing and Regulation shall solicit input from the Department of State Health Services and each advisory board or committee established to advise the Texas Department of Licensing and Regulation with regard to a program transferred to the department under this article.

(d) The Texas Department of Licensing and Regulation shall make each report submitted under this section available to the public on the department's Internet website.

(e) This section expires January 1, 2020.

ARTICLE 2. REGULATORY PROGRAMS TRANSFERRED TO THE TEXAS MEDICAL BOARD

SECTION 2.001. Section 151.004, Occupations Code, is amended to read as follows:

Sec. 151.004. APPLICATION OF SUNSET ACT. The Texas Medical Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subtitle and Chapters 204, 205, ~~and~~ 206, 601, 602, 603, and 604 expire September 1, 2017.

SECTION 2.002. Chapter 167, Occupations Code, is amended by adding Section 167.0091 to read as follows:

Sec. 167.0091. REFERRALS FOR CERTAIN PROFESSIONS. Notwithstanding any other provision of this chapter, the board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate, may make a referral to the program and require participation in the program as a prerequisite for issuing or maintaining a license, certificate, permit, or other authorization under Chapter 601, 602, 603, or 604.

SECTION 2.003. Section 601.002, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (1), (3), and (4) and adding Subdivisions (1-a), (4-a), and (4-b) to read as follows:

(1) "Advisory board" means the Texas Board of Medical Radiologic Technology.

(1-a) "Authorized person" means a person who meets or exceeds the minimum educational standards of the advisory board ~~[department]~~ under Section 601.201.

(3) "Direct supervision" means supervision and control by a medical radiologic technologist or a practitioner who:

(A) assumes legal liability for a student employed to perform a radiologic procedure and enrolled in a program that meets the requirements adopted under Section 601.052 ~~[601.053]~~; and

(B) is physically present during the performance of the radiologic procedure to provide consultation or direct the action of the student.

(4) "Education program" means clinical training or any other program offered by an organization approved by the advisory board ~~[department]~~ that:

(A) has a specified objective;

(B) includes planned activities for participants; and

(C) uses an approved method for measuring the progress of participants.

(4-a) "Hospital" has the meaning assigned by Section 157.051.

(4-b) "Medical board" means the Texas Medical Board.

SECTION 2.004. Chapter 601, Occupations Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TEXAS BOARD OF MEDICAL RADIOLOGIC
TECHNOLOGY

Sec. 601.021. TEXAS BOARD OF MEDICAL RADIOLOGIC TECHNOLOGY. The Texas Board of Medical Radiologic Technology is an advisory board to the Texas Medical Board.

Sec. 601.022. APPOINTMENT OF ADVISORY BOARD. (a) The advisory board consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) four medical radiologic technologists who each have at least five years of experience as a medical radiologic technologist;

(2) two physicians licensed in this state who supervise medical radiologic technologists; and

(3) three members who represent the public.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 601.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a public member of the advisory board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a health care profession;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board or advisory board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board or advisory board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the medical board or advisory board other than compensation or reimbursement authorized by law for advisory board membership, attendance, or expenses.

(c) A person may not be a member of the advisory board if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(d) A person may not be a member of the advisory board or act as the general counsel to the advisory board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the medical board or advisory board.

Sec. 601.024. TERMS; VACANCIES. (a) Members of the advisory board are appointed for staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

(b) A member may not serve more than:

(1) two consecutive full terms; or

(2) a total of three full terms.

(c) If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.

Sec. 601.025. OFFICERS. The governor shall designate a member of the advisory board as the presiding officer of the advisory board to serve in that capacity at the will of the governor. The advisory board shall select from its membership an assistant presiding officer and other officers as the advisory board considers necessary to carry out the advisory board's duties.

Sec. 601.026. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the advisory board that a member:

(1) does not have at the time of taking office the qualifications required by Sections 601.022 and 601.023;

(2) does not maintain during service on the advisory board the qualifications required by Sections 601.022 and 601.023;

(3) is ineligible for membership under Section 601.023;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board.

(b) The validity of an action of the advisory board is not affected by the fact that it is taken when a ground for removal of an advisory board member exists.

(c) If the executive director of the medical board has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the advisory board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the advisory board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 601.027. PER DIEM. A member of the advisory board is entitled to receive a per diem as set by legislative appropriation for each day that the member engages in the business of the advisory board.

Sec. 601.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS, AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided by this chapter, the advisory board is subject to Chapters 551, 552, and 2001, Government Code.

Sec. 601.029. MEETINGS; QUORUM REQUIREMENTS. (a) The advisory board shall conduct regular meetings at least three times a year at the times and places the advisory board considers most convenient for applicants and advisory board members.

(b) The advisory board may hold special meetings in accordance with rules adopted by the advisory board and approved by the medical board.

(c) A majority of the advisory board members constitutes a quorum for all purposes except for an advisory board activity related to examining the credentials of applicants, acting as a panel for disciplinary action under Section 601.306, or conducting an informal meeting under Section 601.311.

Sec. 601.030. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter and the advisory board's programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the advisory board;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(4) any applicable ethics policies adopted by the advisory board or the Texas Ethics Commission.

(c) A person appointed to the advisory board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 2.005. The heading to Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD
[EXECUTIVE COMMISSIONER] AND MEDICAL BOARD [DEPARTMENT]

SECTION 2.006. Section 601.052, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD
[RULES]. The advisory board shall:

(1) ~~[executive commissioner may]~~ adopt rules that are reasonable and necessary for the performance of the advisory board's duties under ~~[to implement]~~ this chapter, as provided by Chapter 2001, Government Code, including rules to establish:

(A) the certification program required by Subchapter C, including minimum standards for issuing, renewing, suspending, canceling, or revoking a certificate;

(B) certification renewal dates;

(C) the registry required by Subchapter E;

(D) grounds for disciplinary actions;

(E) procedures for disciplinary proceedings;

(F) procedures for non-disciplinary remedial plans;

(G) minimum standards for approving and rescinding approval of curricula and education programs to train medical radiologic technologists to perform radiologic procedures;

(H) minimum standards for approving and rescinding approval of instructors to teach approved curricula or education programs to train medical radiologic technologists to perform radiologic procedures;

(I) procedures for requiring an applicant for or holder of a certificate to submit to:

(i) an examination of the applicant's or holder's physical or mental health; and

(ii) screening for alcohol or substance abuse or behavioral issues; and

(J) procedures for making a confidential referral to the Texas Physician Health Program established under Chapter 167, and for requiring participation in the program as a prerequisite for issuing or maintaining a certificate under this chapter or approval under Section 601.054 or 601.055;

(2) review and approve or reject each application for the issuance or renewal of a certificate;

(3) issue each certificate;

(4) deny, suspend, or revoke a certificate or otherwise discipline a certificate holder; and

(5) take any action necessary to carry out the functions and duties of the advisory board under this chapter.

SECTION 2.007. Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Sections 601.0521 and 601.0522 to read as follows:

Sec. 601.0521. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the advisory board's jurisdiction. The guidelines must provide an opportunity for those individuals and groups to provide input before the advisory board submits the rule to the medical board for approval.

(b) A rule adopted under this chapter may not be challenged on the grounds that the advisory board did not comply with this section. If the advisory board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, the advisory board shall state in writing the reasons why it was unable to do so.

Sec. 601.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO RADIOLOGIC PROCEDURES. (a) The medical board shall adopt rules consistent with this chapter to regulate individuals who:

(1) perform radiologic procedures; and

(2) are licensed by the medical board and supervise an individual who performs radiologic procedures.

(b) The medical board, by a majority vote, shall approve or reject each rule adopted by the advisory board. If approved, the rule may take effect. If the rule is rejected, the medical board shall return the rule to the advisory board for revision.

SECTION 2.008. Section 601.054, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.054. APPROVAL AND REVIEW OF CURRICULA AND TRAINING PROGRAMS. (a) An applicant for approval of a curriculum or training program must apply to the advisory board ~~[department]~~ on a form ~~[prescribed by the department]~~ and under rules adopted by the advisory board ~~[executive commissioner]~~.

(b) The advisory board ~~[department]~~ shall approve a curriculum or training program that meets the minimum standards adopted under Section 601.052 ~~[601.053]~~. The advisory board ~~[department]~~ may review the approval annually.

(c) The advisory board ~~[executive commissioner]~~ may set a fee for approval of a curriculum or training program not to exceed the estimated amount that the advisory board ~~[department]~~ projects to be required for the evaluation of the curriculum or training program.

SECTION 2.009. Section 601.055, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.055. APPROVAL AND REVIEW OF INSTRUCTOR APPROVAL. (a) An applicant for approval of an instructor must apply to the advisory board ~~[department]~~ on a form ~~[prescribed by the department]~~ and under rules adopted by the advisory board ~~[executive commissioner]~~.

(b) The advisory board ~~[department]~~ shall approve an instructor who meets the minimum standards adopted under Section 601.052 ~~[601.053]~~. The advisory board ~~[department]~~ may review the approval annually.

SECTION 2.010. Section 601.056(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The medical board, ~~[executive commissioner]~~ with the assistance of the Texas Board of Nursing, the Texas Physician Assistant Board, and other appropriate state agencies, shall identify by rule radiologic procedures, other than radiologic procedures described by Subsection (c), that are dangerous or hazardous and that may be performed only by a practitioner, ~~[or a]~~ medical radiologic technologist certified under this chapter, registered nurse, or licensed physician assistant.

SECTION 2.011. Section 601.057, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.057. FEES. The advisory board by rule ~~[executive commissioner]~~ may set fees for examination, certificate issuance, registration of a person under Section 601.202, and application processing under Section 601.203 in amounts that are reasonable to cover the costs of administering this chapter without the use of additional general revenue. ~~[The fees for issuing or renewing a certificate must be in amounts designed to allow the department to recover from the certificate holders all of the department's direct and indirect costs in administering and enforcing this chapter.]~~

SECTION 2.012. Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Sections 601.0571 and 601.0572 to read as follows:

Sec. 601.0571. FEE REFUND ON CANCELLATION. The advisory board may adopt rules relating to the refund of a fee for the issuance or renewal of a certificate after the cancellation of a certificate.

Sec. 601.0572. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The advisory board shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

SECTION 2.013. Section 601.058, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.058. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The advisory board [~~executive commissioner~~] may not adopt rules restricting advertising or competitive bidding by a medical radiologic technologist except to prohibit false, misleading, or deceptive practices.

(b) In adopting rules to prohibit false, misleading, or deceptive practices, the advisory board [~~executive commissioner~~] may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a medical radiologic technologist's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the medical radiologic technologist; or
- (4) restricts the medical radiologic technologist's advertisement under a trade name.

SECTION 2.014. Subchapter B, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Sections 601.059 and 601.060 to read as follows:

Sec. 601.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF RESPONSIBILITIES. (a) The medical board shall provide administrative and clerical employees as necessary to enable the advisory board to administer this chapter.

(b) Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that clearly separate the policy-making responsibilities of the advisory board and the management responsibilities of the executive director and staff of the medical board.

Sec. 601.060. PUBLIC PARTICIPATION. Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory board and to speak on any issue under the jurisdiction of the advisory board.

SECTION 2.015. Section 601.102, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.102. CLASSES OF CERTIFICATES. (a) The advisory board [~~executive commissioner~~] shall establish classes of certificates to include all radiologic procedures used in the course and scope of the practice of practitioners licensed in this state.

(b) The advisory board [~~department~~] may issue to a person:

- (1) a general certificate to perform radiologic procedures; or

(2) a limited certificate that authorizes the person to perform radiologic procedures only on specific parts of the human body.

(c) The advisory board ~~[department]~~ may issue to a person a temporary general certificate or a temporary limited certificate that authorizes the person to perform radiologic procedures for a period not to exceed one year.

SECTION 2.016. Subchapter C, Chapter 601, Occupations Code, is amended by adding Section 601.1031 to read as follows:

Sec. 601.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR REGISTRATION. (a) The advisory board shall require that an applicant for a certificate submit a complete and legible set of fingerprints, on a form prescribed by the advisory board, to the advisory board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The advisory board may not issue a certificate to a person who does not comply with the requirement of Subsection (a).

(c) The advisory board shall conduct a criminal history check of each applicant for a certificate using information:

(1) provided by the individual under this section; and

(2) made available to the advisory board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The advisory board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 2.017. Section 601.104, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.104. EXAMINATION. (a) The advisory board ~~[executive commissioner]~~ may adopt rules providing for the preparation and administration of an examination for applicants for a certificate.

(b) An applicant for a certificate must pass a jurisprudence examination approved by the advisory board.

SECTION 2.018. Section 601.1041, Occupations Code, is amended to read as follows:

Sec. 601.1041. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes an examination for a certificate under this chapter, the advisory board ~~[department]~~ shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service, the advisory board ~~[department]~~ shall notify the person of the results of the examination not later than the 14th day after the date the advisory board ~~[department]~~ receives the results from the testing service. If notice of the examination results will be delayed for longer than 90 days after the examination date, the advisory board ~~[department]~~ shall notify the person of the reason for the delay before the 90th day.

(c) The advisory board ~~[department]~~ may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails an examination for a certificate administered under this chapter, the advisory board ~~[department]~~ shall furnish the person with an analysis of the person's performance on the examination.

SECTION 2.019. Section 601.105, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The advisory board ~~[department]~~ shall issue a certificate to an applicant who:
(1) meets the minimum standards for certification established under Section 601.052;

(2) passes the required examinations;

(3) complies with the criminal history record information requirement of Section 601.1031;

(4) submits an application on a form prescribed by the advisory board;

(5) pays the required application fee;

(6) certifies that the applicant is mentally and physically able to perform radiologic procedures; and

(7) submits to the advisory board any other information the advisory board considers necessary to evaluate the applicant's qualifications [601.053].

(c) The advisory board may delegate authority to medical board employees to issue certificates under this chapter to applicants who clearly meet all certification requirements. If the medical board employees determine that the applicant does not clearly meet all certification requirements, the application must be returned to the advisory board. A certificate issued under this subsection does not require formal advisory board approval.

SECTION 2.020. Section 601.107, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.107. CERTIFICATION BY ENDORSEMENT. In adopting minimum standards for certifying medical radiologic technologists, the advisory board ~~[executive commissioner]~~ may establish criteria for issuing a certificate to a person licensed or otherwise registered as a medical radiologic technologist by the American Registry of Radiologic Technologists, the American Registry of Clinical Radiography Technologists, or another state whose requirements for licensure or registration were on the date of licensing or registration substantially equal to the requirements of this chapter.

SECTION 2.021. Section 601.108, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.108. CONTINUING EDUCATION AND OTHER GUIDELINES.

(a) The advisory board ~~[executive commissioner]~~ may establish guidelines.

(b) The advisory board ~~[executive commissioner]~~ shall provide for the preparation, recognition, or administration of continuing education programs for medical radiologic technologists in which participation is required, to the extent required by the advisory board ~~[department]~~, to keep the person's certificate.

SECTION 2.022. Section 601.109, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.109. PROVISIONAL CERTIFICATE. (a) The advisory board ~~[department]~~ may issue a provisional certificate to an applicant currently licensed or certified in another jurisdiction who seeks certification in this state and who:

(1) has been licensed or certified in good standing as a medical radiologic technologist for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the advisory board ~~[department]~~ relating to the practice of radiologic technology; and

(3) is sponsored by a medical radiologic technologist certified by the advisory board ~~[department]~~ under this chapter with whom the provisional certificate holder will practice during the time the person holds a provisional certificate.

(b) The advisory board ~~[department]~~ may waive the requirement of Subsection (a)(3) for an applicant if the advisory board ~~[department]~~ determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional certificate is valid until the date the advisory board ~~[department]~~ approves or denies the provisional certificate holder's application for a certificate. The advisory board ~~[department]~~ shall issue a certificate under this chapter to the provisional certificate holder if:

(1) the provisional certificate holder is eligible to be certified under Section 601.107; or

(2) the provisional certificate holder passes the part of the examination under Section 601.104 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of radiologic technology in this state and:

(A) the advisory board ~~[department]~~ verifies that the provisional certificate holder meets the academic and experience requirements for a certificate under this chapter; and

(B) the provisional certificate holder satisfies any other licensing requirements under this chapter.

(d) The advisory board ~~[department]~~ must approve or deny a provisional certificate holder's application for a certificate not later than the 180th day after the date the provisional certificate is issued. The advisory board ~~[department]~~ may extend the 180-day period if the results of an examination have not been received by the advisory board ~~[department]~~ before the end of that period.

(e) The advisory board ~~[executive commissioner]~~ by rule may establish a fee for a provisional certificate in an amount reasonable and necessary to cover the cost of issuing the certificate ~~[designed to allow the department to recover from the certificate holders all of the department's direct and indirect costs in administering and enforcing this chapter].~~

SECTION 2.023. Section 601.110, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.110. CERTIFICATE EXPIRATION. (a) Not later than the 30th day before the date a person's certificate is scheduled to expire, the advisory board ~~[department]~~ shall send written notice of the impending expiration to the person at the person's last known address according to the records of the advisory board ~~[department]~~.

(b) The advisory board [~~executive commissioner~~] by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the certificate expiration date is changed, the advisory board [~~department~~] shall prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

SECTION 2.024. Section 601.111, Occupations Code, is amended to read as follows:

Sec. 601.111. CERTIFICATE RENEWAL [~~PROCEDURE~~]. (a) On notification from the advisory board, a [A] person who is otherwise eligible to renew a certificate may renew an unexpired certificate by:

(1) paying the required renewal fee to the advisory board [~~department~~] before the expiration date of the certificate;

(2) submitting the appropriate form; and

(3) meeting any other requirement established by advisory board rule.

(a-1) A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

(b) A person whose certificate has been expired for 90 days or less may renew the certificate by paying to the advisory board [~~department~~] a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the advisory board [~~department~~] a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose certificate has been expired for one year or more may not renew the certificate. The person may obtain a new certificate by complying with the requirements and procedures, including the examination requirements, for an original certificate.

SECTION 2.025. Subchapter C, Chapter 601, Occupations Code, is amended by adding Section 601.1111 to read as follows:

Sec. 601.1111. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a certificate shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 601.1031.

(b) The advisory board may not renew the certificate of a person who does not comply with the requirement of Subsection (a).

(c) A certificate holder is not required to submit fingerprints under this section for the renewal of the certificate if the holder has previously submitted fingerprints under:

(1) Section 601.1031 for the initial issuance of the certificate of registration;
or

(2) this section as part of a prior renewal of a certificate of registration.

SECTION 2.026. The heading to Section 601.112, Occupations Code, is amended to read as follows:

Sec. 601.112. RENEWAL OF CERTIFICATE BY OUT-OF-STATE PERSON [~~PRACTITIONER~~].

SECTION 2.027. Section 601.112(b), Occupations Code, is amended to read as follows:

(b) The person must pay to the advisory board ~~[department]~~ a fee that is equal to two times the normally required renewal fee for the certificate.

SECTION 2.028. Section 601.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.154. HOSPITAL PROCEDURES. A person is not required to hold a certificate issued under this chapter to perform a radiologic procedure in a hospital if:

(1) the hospital participates in the federal Medicare program or is accredited by the Joint Commission on Accreditation of Hospitals; and

(2) the person has completed a training program approved by the advisory board ~~[department]~~ under Section 601.201.

SECTION 2.029. Section 601.156, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.156. PROCEDURE PERFORMED AS PART OF CONTINUING EDUCATION PROGRAM. A person is not required to hold a certificate issued under this chapter or to comply with the registration requirements adopted under Section 601.252 if the person is:

(1) licensed or otherwise registered as a medical radiologic technologist by another state, the American Registry of Radiologic Technologists, the American Registry of Clinical Radiography Technologists, or a professional organization or association recognized by the advisory board ~~[department]~~;

(2) enrolled in a continuing education program that meets the requirements adopted under Section 601.108; and

(3) performing a radiologic procedure as part of the continuing education program for not more than 10 days.

SECTION 2.030. Subchapter E, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER E. MANDATORY TRAINING FOR CERTAIN AUTHORIZED PERSONS

Sec. 601.201. MANDATORY TRAINING. (a) The minimum standards of the advisory board ~~[department]~~ for approval of a curriculum or an education program under Section 601.052 ~~[601.053]~~ must include mandatory training guidelines for a person, other than a practitioner, ~~[or a]~~ medical radiologic technologist, registered nurse, or licensed physician assistant, who intentionally uses radiologic technology, including a person who does not hold a certificate issued under this chapter and who is performing a radiologic procedure at a hospital or under the direction of a practitioner, other than a dentist.

(b) The training program approved by the advisory board ~~[department]~~ must contain an appropriate number of hours of education that must be completed before the person may perform a radiologic procedure.

Sec. 601.202. REGISTRY. The advisory board ~~[executive commissioner]~~ by rule shall establish a registry of persons required to comply with this subchapter.

Sec. 601.203. HARDSHIP EXEMPTION. (a) On application to the advisory board ~~[department]~~ by a hospital, a federally qualified health center as defined by 42 U.S.C. Section 1396d, or a practitioner, the advisory board ~~[department]~~ shall exempt the applicant from the requirements of Section 601.201 in employing a person certified under this chapter or trained as required by Section 601.201 if the applicant shows a hardship in employing a person certified under this chapter or trained as required by Section 601.201.

(b) The following conditions are considered to be a hardship for the purposes of Subsection (a):

(1) that the applicant reports an inability to attract and retain medical radiologic technologists;

(2) that the applicant is located at a great distance from a school of medical radiologic technology;

(3) that there is a list of qualified persons who have applied to a school of medical radiologic technology whose admissions are pending because of a lack of faculty or space;

(4) that the school of medical radiologic technology produces an insufficient number of graduates in medical radiologic technology to meet the needs of the applicant; or

(5) any other criteria determined by advisory board ~~[department]~~ rule.

SECTION 2.031. Section 601.251, Occupations Code, is amended to read as follows:

Sec. 601.251. APPLICABILITY. This subchapter applies to the:

(1) Texas Board of Nursing;

(2) Texas Board of Chiropractic Examiners;

(3) State Board of Dental Examiners;

(4) Texas Medical Board; ~~[and]~~

(5) Texas State Board of Podiatric Medical Examiners; and

(6) Texas Physician Assistant Board.

SECTION 2.032. Section 601.252(a), Occupations Code, is amended to read as follows:

(a) Each agency subject to this subchapter, other than the Texas Board of Nursing and the Texas Physician Assistant Board, shall adopt rules to regulate the manner in which a person who holds a license issued by the agency may order, instruct, or direct another authorized person in the performance of a radiologic procedure.

SECTION 2.033. Section 601.253(a), Occupations Code, is amended to read as follows:

(a) The Texas Board of Nursing shall ~~[may]~~ adopt rules governing registered nurses performing radiologic procedures under Section 601.151 or 601.154, including rules:

(1) establishing mandatory training guidelines; and

(2) requiring ~~[shall require]~~ registered nurses performing radiologic procedures under Section 601.151 to register with the Texas Board of Nursing and to identify the practitioner ordering the procedures.

SECTION 2.034. Subchapter F, Chapter 601, Occupations Code, is amended by adding Section 601.254 to read as follows:

Sec. 601.254. TEXAS PHYSICIAN ASSISTANT BOARD. (a) The Texas Physician Assistant Board shall adopt rules governing licensed physician assistants performing radiologic procedures under Section 601.151 or 601.154, including rules:

(1) establishing mandatory training guidelines; and

(2) requiring licensed physician assistants performing radiologic procedures under Section 601.151 to register with the Texas Physician Assistant Board and to identify the practitioner ordering the procedures.

(b) The Texas Physician Assistant Board shall notify the agency licensing the practitioner that the physician assistant has registered under this section.

SECTION 2.035. Chapter 601, Occupations Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 601.271. COMPLAINT INFORMATION AND STATUS. (a) The advisory board shall maintain a system to promptly and efficiently act on complaints filed with the advisory board. The advisory board shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint;
and

(3) information about the disposition of the complaint.

(b) The advisory board shall make information available describing its procedures for complaint investigation and resolution.

(c) If a written complaint is filed with the advisory board relating to a certificate holder or a person approved under Section 601.054 or 601.055, the advisory board, as often as quarterly and until final determination of the action to be taken on the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

Sec. 601.272. CONDUCT OF INVESTIGATION. The advisory board shall complete a preliminary investigation of a complaint filed with the advisory board not later than the 45th day after the date of receiving the complaint. The advisory board shall first determine whether the person constitutes a continuing threat to the public welfare. On completion of the preliminary investigation, the advisory board shall determine whether to officially proceed on the complaint. If the advisory board fails to complete the preliminary investigation in the time required by this section, the advisory board's official investigation of the complaint is considered to commence on that date.

Sec. 601.273. ACCESS TO COMPLAINT INFORMATION. (a) Except as provided by Subsection (b), the advisory board shall provide a person who is the subject of a formal complaint filed under this chapter with access to all information in its possession that the advisory board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. The advisory board shall provide the information not later than the 30th day after receipt of a written request from the person or the person's counsel, unless good cause is shown for delay.

(b) The advisory board is not required to provide:

- (1) advisory board investigative reports;
- (2) investigative memoranda;
- (3) the identity of a nontestifying complainant;
- (4) attorney-client communications;
- (5) attorney work product; or
- (6) other material covered by a privilege recognized by the Texas Rules of

Civil Procedure or the Texas Rules of Evidence.

(c) Providing information under this section does not constitute a waiver of privilege or confidentiality under this chapter or other law.

Sec. 601.274. HEALTH CARE ENTITY REQUEST FOR INFORMATION.

On the written request of a health care entity, the advisory board shall provide to the entity:

(1) information about a complaint filed against a person that was resolved after investigation by:

- (A) a disciplinary order of the advisory board; or
- (B) an agreed settlement; and

(2) the basis of and current status of any complaint that has been referred by the executive director of the medical board for enforcement action.

Sec. 601.275. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION.

A complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the advisory board, the medical board, or an employee or agent of the medical board relating to a certificate holder, a person approved under Section 601.054 or 601.055, an application for certification or approval, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the advisory board, the medical board, or an employee or agent of the advisory board or medical board involved in discipline under this chapter. For purposes of this section, "investigative information" includes information related to the identity of a person performing or supervising compliance monitoring for the advisory board or medical board and a report prepared by the person related to compliance monitoring.

Sec. 601.276. PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board that relates to the discipline of a certificate holder or a person approved under Section 601.054 or 601.055, may be disclosed to:

(1) a licensing authority in another state or country in which the certificate holder or person is licensed, certified, or permitted or has applied for a license, certification, or permit; or

(2) a medical peer review committee reviewing:

(A) an application for privileges; or

(B) the qualifications of the certificate holder or person with respect to retaining privileges.

(b) If investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board indicates that a crime may have been committed, the advisory board or medical board, as appropriate, shall report the information to the proper law enforcement agency. The advisory board and medical board shall cooperate with and assist each law enforcement agency conducting a criminal investigation of a certificate holder or a person approved under Section 601.054 or 601.055 by providing information relevant to the investigation. Confidential information disclosed to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 2.036. Subchapter G, Chapter 601, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER G. CERTIFICATE DENIAL AND DISCIPLINARY ACTION

Sec. 601.301. CERTIFICATE DENIAL AND DISCIPLINARY ACTION. The advisory board [~~department~~] may, for a violation of this chapter or a rule adopted under this chapter:

- (1) suspend, restrict, revoke, or refuse to renew a certificate;
- (2) rescind approval of a curriculum, training program, or instructor;
- (3) deny an application for certification or approval;
- (4) issue a reprimand; or
- (5) place the offender's certificate on probation and require compliance with a requirement of the advisory board [~~department~~], including requiring the offender to:
 - (A) submit to medical or psychological treatment;
 - (B) meet additional education requirements;
 - (C) pass an examination; or
 - (D) work under the supervision of a medical radiologic technologist or other practitioner.

Sec. 601.302. GROUNDS FOR CERTIFICATE DENIAL OR DISCIPLINARY ACTION. The advisory board [~~department~~] may take action under Section 601.301 against a person subject to this chapter for:

- (1) obtaining or attempting to obtain a certificate issued under this chapter by bribery or fraud;
- (2) making or filing a false report or record made in the person's capacity as a medical radiologic technologist;
- (3) intentionally or negligently failing to file a report or record required by law;
- (4) intentionally obstructing or inducing another to intentionally obstruct the filing of a report or record required by law;
- (5) engaging in unprofessional conduct, including the violation of the standards of practice of radiologic technology established by the advisory board [~~department~~];
- (6) developing an incapacity that prevents the practice of radiologic technology with reasonable skill, competence, and safety to the public as the result of:
 - (A) an illness;
 - (B) drug or alcohol dependency; or

(C) another physical or mental condition or illness;

(7) failing to report to the advisory board ~~[department]~~ the violation of this chapter by another person;

(8) employing, for the purpose of applying ionizing radiation to a person, a person who is not certified under or in compliance with this chapter;

(9) violating this chapter, a rule adopted under this chapter, an order of the advisory board ~~[department]~~ previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the advisory board ~~[department]~~;

(10) having a certificate revoked, suspended, or otherwise subjected to adverse action or being denied a certificate by another certification authority in another state, territory, or country; or

(11) being convicted of or pleading nolo contendere to a crime directly related to the practice of radiologic technology.

Sec. 601.303. STUDENT PRACTICING WITHOUT DIRECT SUPERVISION. The advisory board ~~[department]~~ may take disciplinary action against a student for intentionally practicing radiologic technology without direct supervision.

Sec. 601.304. ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE HEARING. For a contested case hearing in which a formal complaint has been filed under this chapter, the ~~[The]~~ procedure by which the advisory board ~~[department]~~ takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by:

(1) advisory board ~~[department]~~ rules for a contested case hearing; and

(2) Chapter 2001, Government Code.

Sec. 601.305. SURRENDER OF CERTIFICATE ~~[REINSTATEMENT]~~.

(a) The advisory board may accept the voluntary surrender of a certificate. A person who has surrendered a certificate may not engage in activities that require a certificate, and the advisory board may not return the certificate to the person, until the person demonstrates to the satisfaction of the advisory board ~~[subject to disciplinary action under Section 601.302(6) shall, at reasonable intervals, be given an opportunity to demonstrate]~~ that the person is able to resume the practice of radiologic technology.

(b) The advisory board shall by rule establish guidelines for determining when a person is competent to resume ~~[department may not reinstate a certificate to a holder or issue a certificate to an applicant previously denied a certificate unless the department is satisfied that the holder or applicant has complied with requirements set by the department and is capable of engaging in]~~ the practice of radiologic technology.

Sec. 601.306. EMERGENCY SUSPENSION. (a) The presiding officer of the advisory board shall appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate should be temporarily suspended.

(a-1) The disciplinary panel ~~[department]~~ shall temporarily suspend the certificate of a certificate holder if the panel ~~[department]~~ determines from the evidence or information presented to it that continued practice by the certificate holder would constitute a continuing ~~[and imminent]~~ threat to the public welfare.

(b) A certificate may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the advisory board ~~[State Office of Administrative Hearings]~~ simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

(c) Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the panel ~~[The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension].~~

Sec. 601.307. DELEGATION OF CERTAIN COMPLAINT DISPOSITIONS.

(a) The advisory board may delegate to a committee of medical board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations. The disposition determined by the committee must be approved by the advisory board at a public meeting.

(b) A complaint delegated under this section shall be referred for an informal proceeding under Section 601.311 if:

(1) the committee of employees determines that the complaint should not be dismissed or settled;

(2) the committee is unable to reach an agreed settlement; or

(3) the affected person requests that the complaint be referred for an informal proceeding.

Sec. 601.308. SUBPOENA. (a) The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue a subpoena or subpoena duces tecum for the advisory board:

(1) to conduct an investigation or a contested proceeding related to:

(A) alleged misconduct by a certificate holder or a person approved under Section 601.054 or 601.055;

(B) an alleged violation of this chapter or other law related to radiologic technology; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a certificate or approval under this chapter.

(b) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the advisory board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of an application for certification or approval.

Sec. 601.309. PROTECTION OF PATIENT IDENTITY. In a disciplinary investigation or proceeding conducted under this chapter, the advisory board shall protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:

- (1) testifies in the public proceeding; or
- (2) submits a written release in regard to the patient's records or identity.

Sec. 601.310. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED CERTIFICATE HOLDER. Regardless of the offense, the advisory board shall suspend the certificate or approval of a person serving a prison term in a state or federal penitentiary during the term of the incarceration.

Sec. 601.311. INFORMAL PROCEEDINGS. (a) The advisory board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must require that:

(1) an informal meeting in compliance with Section 2001.054, Government Code, be scheduled and the advisory board give notice to the person who is the subject of a complaint of the time and place of the meeting not later than the 45th day before the date the meeting is held;

(2) the complainant and the person who is the subject of the complaint be provided an opportunity to be heard;

(3) at least one of the advisory board members participating in the informal meeting as a panelist be a member who represents the public;

(4) a member of the medical board's staff be at the meeting to present to the advisory board's representative the facts the staff reasonably believes it could prove by competent evidence or qualified witnesses at a hearing; and

(5) the advisory board's legal counsel or a representative of the attorney general be present to advise the advisory board or the medical board's staff.

(c) The person who is the subject of the complaint is entitled to:

(1) reply to the staff's presentation; and

(2) present the facts the person reasonably believes the person could prove by competent evidence or qualified witnesses at a hearing.

(d) After ample time is given for the presentations, the advisory board representative shall recommend that the investigation be closed or shall attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.

(e) If the person who is the subject of the complaint has previously been the subject of disciplinary action by the advisory board, the advisory board shall schedule the informal meeting as soon as practicable.

(f) Section 601.275 applies to an investigation file and investigative information in the possession of or used by the advisory board in an informal proceeding under this section.

Sec. 601.312. ADVISORY BOARD REPRESENTATION IN INFORMAL PROCEEDINGS. (a) In an informal meeting under Section 601.311, at least two panelists shall be appointed to determine whether an informal disposition is appropriate.

(b) Notwithstanding Subsection (a) and Section 601.311(b)(3), an informal proceeding may be conducted by one panelist if the person who is the subject of the complaint waives the requirement that at least two panelists conduct the informal proceeding. If the person waives that requirement, the panelist may be any member of the advisory board.

(c) Except as provided by Subsection (d), the panel requirements described by Subsections (a) and (b) apply to an informal proceeding conducted by the advisory board under Section 601.311, including a proceeding to:

(1) consider a disciplinary case to determine if a violation has occurred; or

(2) request modification or termination of an order.

(d) The panel requirements described by Subsections (a) and (b) do not apply to an informal proceeding conducted by the advisory board under Section 601.311 to show compliance with an order of the advisory board.

Sec. 601.313. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN INFORMAL PROCEEDINGS. (a) An advisory board member who serves as a panelist at an informal meeting under Section 601.311 shall make recommendations for the disposition of a complaint or allegation. The member may request the assistance of a medical board employee at any time.

(b) Medical board employees shall present a summary of the allegations against the person who is the subject of the complaint and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) An attorney for the advisory board or medical board shall act as counsel to the panel and, notwithstanding Subsection (e), shall be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. The attorney may ask questions of a participant in the informal meeting to clarify any statement made by the participant. The attorney shall provide to the panel a historical perspective on comparable cases that have appeared before the advisory board or medical board, keep the proceedings focused on the case being discussed, and ensure that the medical board's employees and the person who is the subject of the complaint have an opportunity to present information related to the case. During the panel's deliberations, the attorney may be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the advisory board or medical board.

(d) The panel and medical board employees shall provide an opportunity for the person who is the subject of the complaint and the person's authorized representative to reply to the medical board employees' presentation and to present oral and written statements and facts that the person and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) An employee of the medical board who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the person who is the subject of the complaint, the person's authorized representative, the complainant, the witnesses, and members of the public may not be present during the deliberations of the panel. Only the members of the panel and the attorney serving as counsel to the panel may be present during the deliberations.

(f) The panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the person has violated a statute or advisory board rule, the panel may recommend advisory board action and terms for an informal settlement of the case.

(g) The panel's recommendations under Subsection (f) must be made in a written order and presented to the affected person and the person's authorized representative. The person may accept the proposed settlement within the time established by the panel at the informal meeting. If the person rejects the proposed settlement or does not act within the required time, the advisory board may proceed with the filing of a formal complaint with the State Office of Administrative Hearings.

Sec. 601.314. LIMIT ON ACCESS TO INVESTIGATION FILES. The advisory board shall prohibit or limit access to an investigation file relating to a person subject to an informal proceeding in the manner provided by Sections 164.007(c) and 601.275.

Sec. 601.315. REFUND. (a) Subject to Subsection (b), the advisory board may order a certificate holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter H.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the certificate holder for a service regulated by this chapter. The advisory board may not require payment of other damages or estimate harm in a refund order.

Sec. 601.316. EXPERT IMMUNITY. An expert who assists the advisory board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken in the course of assisting the advisory board in a disciplinary proceeding. The attorney general shall represent the expert in any suit resulting from a service provided by the person in good faith to the advisory board.

SECTION 2.037. Section 601.351, Occupations Code, is amended to read as follows:

Sec. 601.351. IMPOSITION OF PENALTY. The advisory board [~~department~~] may impose an administrative penalty against a person who violates this chapter or a rule adopted under this chapter.

SECTION 2.038. Section 601.353(a), Occupations Code, is amended to read as follows:

(a) If, after investigating a possible violation and the facts surrounding that possible violation, the advisory board [~~department~~] determines that a violation occurred, the advisory board [~~department~~] shall give written notice of the violation to the person alleged to have committed the violation.

SECTION 2.039. Section 601.354, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice, the person may:

(1) accept the [~~department's~~] determination, including the proposed administrative penalty; or

(2) make a written request for a hearing on that determination.

(b) If the person accepts the [department's] determination, the advisory board [department] by order shall approve the determination and impose the proposed penalty.

SECTION 2.040. Section 601.355, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.355. HEARING. (a) If the person timely requests a hearing, the advisory board [department] shall:

- (1) set a hearing;
- (2) give written notice of the hearing to the person; and
- (3) designate a hearings examiner to conduct the hearing.

(b) The hearings examiner shall make findings of fact and conclusions of law and promptly issue to the advisory board [department] a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

SECTION 2.041. Section 601.356, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.356. DECISION BY ADVISORY BOARD [DEPARTMENT].

(a) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the advisory board [department] by order may determine that:

- (1) a violation has occurred and may impose an administrative penalty; or
- (2) a violation did not occur.

(b) The advisory board [department] shall give notice of the order to the person. The notice must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty imposed; and
- (3) a statement of the right of the person to judicial review of the order.

SECTION 2.042. Sections 601.357(b) and (c), Occupations Code, are amended to read as follows:

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

- (1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account;
or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

- (2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the advisory board [department] by certified mail.

(c) If the advisory board [department] receives a copy of an affidavit as provided by Subsection (b)(2), the advisory board [department] may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

SECTION 2.043. Section 601.358, Occupations Code, is amended to read as follows:

Sec. 601.358. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the advisory board [department] may refer the matter to the attorney general for collection.

SECTION 2.044. Section 601.360(a), Occupations Code, is amended to read as follows:

(a) If, after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall, after the judgment becomes final:

(1) order the appropriate amount, plus accrued interest, be remitted to the person by the advisory board [department] if the person paid the penalty under Section 601.357(a)(2); or

(2) if the person paid the penalty under Section 601.357(b)(1)(A) or posted a supersedeas bond, order the advisory board [department] to:

(A) execute a complete release of the escrow account or bond, as appropriate, if the penalty is not imposed; or

(B) release the escrow account or bond, as appropriate, after the reduced penalty has been paid from the account or by the person.

SECTION 2.045. Section 601.361, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 601.361. EXPENSES AND COSTS. (a) In this section, "reasonable expenses and costs" includes expenses incurred by the advisory board [department] and the attorney general in the investigation, initiation, or prosecution of an action, including reasonable investigative costs, court costs, attorney's fees, witness fees, and deposition expenses.

(b) The advisory board [department] may assess reasonable expenses and costs against a person in an administrative hearing if, as a result of the hearing, an administrative penalty is assessed against the person. The person shall pay expenses and costs assessed under this subsection not later than the 30th day after the date the order of the advisory board [department] requiring the payment of expenses and costs is final. The advisory board [department] may refer the matter to the attorney general for collection of the expenses and costs.

(c) If the attorney general brings an action against a person to enforce an administrative penalty assessed under this chapter and the person is found liable for an administrative penalty, the attorney general may recover, on behalf of the attorney general and the advisory board [department], reasonable expenses and costs.

SECTION 2.046. Sections 601.401(a) and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, the advisory board [department] may bring an action to enjoin the continued or threatened violation.

(c) At the request of the advisory board [department], the attorney general shall bring an action in the name of the state for the injunctive relief, to recover the civil penalty, or both.

SECTION 2.047. Section 601.402(a), Occupations Code, is amended to read as follows:

(a) A person who is required to be certified under this chapter commits an offense if the person:

(1) knowingly administers a radiologic procedure to another person without holding a valid certificate issued by the advisory board ~~[department]~~;

(2) practices radiologic technology without holding a certificate under this chapter;

(3) uses or attempts to use a suspended or revoked certificate;

(4) knowingly allows a student enrolled in an education program to perform a radiologic procedure without direct supervision;

(5) obtains or attempts to obtain a certificate through bribery or fraudulent misrepresentation;

(6) uses the title or name "certified medical radiologic technologist" or any other name or title that implies the person is certified to practice radiologic technology, unless the person is certified under this chapter;

(7) knowingly conceals information relating to enforcement of this chapter or a rule adopted under this chapter; or

(8) employs a person not certified by or in compliance with this chapter for the purpose of applying ionizing radiation to a person.

SECTION 2.048. Section 602.002, Occupations Code, is amended by amending Subdivision (1), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subdivision (4), and adding Subdivision (5-a) to read as follows:

(1) "Advisory committee" ~~["Board"]~~ means the Medical Physicist ~~[Texas Board of Licensure Advisory Committee for Professional Medical Physicists]~~.

(4) "License" means a certificate issued by the medical board that authorizes the holder to engage in the practice of medical physics.

(5-a) "Medical board" means the Texas Medical Board.

SECTION 2.049. The heading to Subchapter B, Chapter 602, Occupations Code, is amended to read as follows:

SUBCHAPTER B. MEDICAL PHYSICIST ~~[TEXAS BOARD OF LICENSURE ADVISORY COMMITTEE FOR PROFESSIONAL MEDICAL PHYSICISTS]~~

SECTION 2.050. Section 602.051, Occupations Code, is amended to read as follows:

Sec. 602.051. ADVISORY COMMITTEE ~~[BOARD]~~. (a) The advisory committee ~~[Texas Board of Licensure for Professional Medical Physicists]~~ is an informal advisory committee to the medical board and is not subject to Chapter 2110, Government Code ~~[the division of the department responsible for regulating the practice of medical physics]~~.

(b) The advisory committee has no independent rulemaking authority.

SECTION 2.051. The heading to Section 602.052, Occupations Code, is amended to read as follows:

Sec. 602.052. APPOINTMENT OF ADVISORY COMMITTEE ~~[BOARD MEMBERS]~~.

SECTION 2.052. Sections 602.052(a) and (d), Occupations Code, are amended to read as follows:

(a) The advisory committee ~~[board]~~ consists of seven ~~[nine]~~ members appointed by the president of the medical board ~~[governor with the advice and consent of the senate]~~ as follows:

(1) four ~~[five licensed]~~ medical physicists licensed in this state who each have at least five years of experience as a medical physicist, ~~with at least one board certified representative of each of the following specialties:~~

~~[(A) diagnostic radiological physics;~~

~~[(B) medical health physics;~~

~~[(C) medical nuclear physics; and~~

~~[(D) therapeutic radiological physics];~~

(2) two ~~[three]~~ physicians licensed in this state who each have at least five years of clinical experience related to medical physics, ~~with a board certified representative of each of the following specialties:~~

~~[(A) diagnostic radiology;~~

~~[(B) nuclear medicine; and~~

~~[(C) radiation therapy]; and~~

(3) one member who represents the public.

(d) Appointments to the advisory committee ~~[board]~~ shall be made without regard to the race, color, disability, creed, sex, religion, age, or national origin of the appointee.

SECTION 2.053. The heading to Section 602.053, Occupations Code, is amended to read as follows:

Sec. 602.053. PUBLIC MEMBER ~~[BOARD MEMBERSHIP;]~~ ELIGIBILITY.

SECTION 2.054. Section 602.053(d), Occupations Code, is amended to read as follows:

(d) An advisory committee ~~[A public board]~~ member representing the public must be a resident of this [the] state for a period of not less than four years preceding appointment. A person may not be a [public] member of the advisory committee representing the public [board] if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a health care profession ~~[the field of medical physics];~~

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the medical board other than compensation or reimbursement authorized by law for medical board membership, attendance, or expenses.

SECTION 2.055. Sections 602.054(b) and (c), Occupations Code, are amended to read as follows:

(b) A person may not be a member of the advisory committee ~~[board]~~ if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of medicine; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of medicine.

(c) A person may not serve as a member of the advisory committee ~~[board]~~ if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory committee or medical board.

SECTION 2.056. Section 602.055, Occupations Code, is amended to read as follows:

Sec. 602.055. TERMS; VACANCY. (a) Members of the advisory committee ~~[board]~~ serve two-year ~~[staggered six year]~~ terms. The terms of the ~~[three]~~ members expire on February 1 of each odd-numbered year.

(b) A person is not eligible to serve more than two ~~[one]~~ consecutive full terms ~~[six year term]~~. ~~[A person may serve consecutively one six year term and a shorter term that arises because of filling an unexpired vacancy.]~~

(c) If a vacancy occurs during a member's term ~~[on the board]~~, the president of the medical board ~~[governor]~~ shall appoint a person to serve for the unexpired term.

SECTION 2.057. Sections 602.056(a) and (b), Occupations Code, are amended to read as follows:

(a) It is a ground for removal from the advisory committee ~~[board]~~ that a member:

(1) does not have at the time of appointment the qualifications required by Section 602.052 ~~[602.053]~~ for appointment to the advisory committee ~~[board]~~;

(2) does not maintain during service on the advisory committee ~~[board]~~ the qualifications required by Section 602.052 ~~[602.053]~~ for appointment to the advisory committee ~~[board]~~;

(3) is ineligible for membership under Section 602.053(d) or Section 602.054; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term~~]; or~~

~~[(5) does not attend at least half of the regularly scheduled board meetings held in a calendar year, excluding meetings held while the person was not a board member, without an excuse approved by the board].~~

(b) The validity of an ~~[A board]~~ action of the advisory committee is not affected by the fact that it is taken while a ground for removal of a member of the advisory committee ~~[board]~~ exists ~~[is not invalid for that reason]~~.

SECTION 2.058. Section 602.057, Occupations Code, is amended to read as follows:

Sec. 602.057. COMPENSATION. A member of the advisory committee ~~[board]~~ is entitled to a per diem in an amount set by the legislature for each day that the member engages in the business of the advisory committee ~~[board]~~.

SECTION 2.059. Section 602.058, Occupations Code, is amended to read as follows:

Sec. 602.058. ADVISORY COMMITTEE ~~[BOARD]~~ OFFICERS; MEETINGS.

(a) The president of the medical board ~~[governor]~~ shall biennially designate a member of the advisory committee ~~[board]~~ as the presiding officer of the advisory committee ~~[board]~~ to serve in that capacity at the will of the president ~~[governor]~~. The

advisory committee may ~~[At the first regularly scheduled meeting of each calendar year, the board shall]~~ elect from its members additional officers as necessary ~~[an assistant presiding officer]~~.

(b) The advisory committee ~~[board]~~ shall meet as requested by the medical board. A meeting may be held by telephone conference call ~~[hold a meeting at least once a year and at other times in accordance with board rule]~~.

(c) Except as otherwise provided by this chapter, the advisory committee is subject to Chapters 551, 552, and 2001, Government Code.

(d) A majority of the advisory committee members constitutes a quorum for all purposes except when advisory committee members are participating in a proceeding of the medical board as described by Section 602.151(b).

SECTION 2.060. The heading to Subchapter D, Chapter 602, Occupations Code, is amended to read as follows:

SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

SECTION 2.061. Section 602.151, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 602.151. GENERAL POWERS AND DUTIES. (a) The medical board shall:

(1) adopt ~~[and revise, with the approval of the executive commissioner of the Health and Human Services Commission,]~~ rules reasonably necessary to properly perform its duties under this chapter, including:

(A) procedural rules governing investigations, informal hearings, the issuance of cease and desist orders, and disciplinary sanctions; and

(B) rules governing character and conduct for applicants or license holders and fitness to practice medical physics in this state;

(2) establish ~~[adopt an official seal;~~

~~(3) determine the]~~ qualifications for a medical physicist to practice in this state and the fitness of each applicant for a license or license renewal;

(3) establish minimum education and training requirements necessary for a license under this chapter;

(4) establish requirements for ~~[charge a fee for processing and issuing or renewing a license;~~

~~[(5) conduct]~~ examinations for licensure;

(5) prescribe the application form for a license under this chapter;

(6) issue, deny, renew, revoke, cancel, restrict, [and] suspend, or accept the surrender of a license ~~[licenses];~~

(7) charge fees that are reasonable and necessary to cover the costs of administering this chapter ~~[adopt and publish a code of ethics]; [and]~~

(8) conduct informal hearings ~~[on complaints]~~ concerning violations of this chapter or rules adopted under this chapter;

(9) issue disciplinary sanctions, including agreed orders and non-disciplinary remedial plans; and

(10) establish procedures for making a confidential referral to the Texas Physician Health Program established under Chapter 167, and for requiring participation in the program as a prerequisite for issuing or maintaining a license under this chapter.

(b) The medical board may include any member of the advisory committee in a proceeding of the medical board related to a power or duty described by Subsection (a) if the medical board considers the expertise of the advisory committee member to be beneficial in the proceeding.

SECTION 2.062. Section 602.152, Occupations Code, is amended to read as follows:

Sec. 602.152. CONSUMER INTEREST INFORMATION; COMPLAINTS.

(a) The medical board shall prepare information of consumer interest describing the regulatory functions of the medical board and the procedures by which complaints are filed with and resolved by the medical board.

(b) The medical board shall maintain a file on each written complaint filed with the medical board. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the medical board;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint;

and

(6) an explanation of the reason the file was closed, if the medical board closed the file without taking action other than to investigate the complaint.

(c) The medical board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the medical board's policies and procedures relating to complaint investigation and resolution.

(d) The medical board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

SECTION 2.063. Section 602.1521, Occupations Code, is amended to read as follows:

Sec. 602.1521. PUBLIC PARTICIPATION. The medical board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the medical board and to speak on any issue relating to medical physicists [under the jurisdiction of the board].

SECTION 2.064. The heading to Section 602.1525, Occupations Code, is amended to read as follows:

Sec. 602.1525. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

SECTION 2.065. Section 602.1525, Occupations Code, is amended by amending Subsection (a), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (h) and (i), and adding Subsection (a-1) to read as follows:

(a) The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue ~~[In an investigation of a complaint filed with the board, the board may request that the commissioner or the commissioner's designee approve the issuance of]~~ a subpoena or subpoena duces tecum:

- (1) to conduct an investigation or a contested case proceeding related to:

(A) alleged misconduct by a medical physicist;

(B) an alleged violation of this chapter or another law related to the practice of medical physics; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter~~[If the request is approved, the board may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state].~~

(a-1) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the medical board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

(h) All information and materials subpoenaed or compiled by the medical board in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the medical board or its agents or employees who are involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the medical board in a disciplinary action against the holder of a license;

(2) professional medical physics licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the medical board under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the medical board against a holder of a license, the nature of those charges, disciplinary proceedings of the medical board, and final disciplinary actions, including warnings and reprimands, by the medical board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 2.066. Section 602.153, Occupations Code, is amended to read as follows:

Sec. 602.153. CONTINUING EDUCATION. The medical board shall recognize, prepare, or administer continuing education programs for persons licensed under this chapter ~~[by the board]~~. A license holder must participate in the programs to the extent required by the medical board to keep the person's license.

SECTION 2.067. Section 602.154, Occupations Code, is amended to read as follows:

Sec. 602.154. RULES RELATING TO ADVERTISING OR COMPETITIVE BIDDING. (a) The medical board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the medical board may not include a rule that:

- (1) restricts the use of any medium for advertising;
 - (2) restricts the use of a license holder's personal appearance or voice in an advertisement;
 - (3) relates to the size or duration of an advertisement by the license holder;
- or
- (4) restricts the license holder's advertisement under a trade name.

SECTION 2.068. Subchapter D, Chapter 602, Occupations Code, is amended by adding Section 602.156 to read as follows:

Sec. 602.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The medical board shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

SECTION 2.069. Section 602.203, Occupations Code, is amended to read as follows:

Sec. 602.203. LICENSE APPLICATION. (a) A person may apply for a license by filing an application with the medical board.

(b) An application must be on a form prescribed by the medical board and must include:

- (1) evidence of relevant work experience, including a description of the duties performed;
- (2) an official transcript from the college or university granting the applicant's degree;
- (3) a statement of the medical physics specialty for which the application is submitted;
- (4) three professional references; and
- (5) any additional information required by medical board rule.

(c) The applicant must submit with the application the fee prescribed by the medical board.

(d) The medical board [~~or the executive secretary~~] may require an applicant to appear before the medical board [~~or secretary~~] to present additional information in support of the application.

SECTION 2.070. Section 602.205, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 602.205. TEMPORARY LICENSE. The medical board may issue a temporary license to an applicant who has satisfied the educational requirements for a license but who has not yet completed the experience and examination requirements of Section 602.207. A temporary license is valid for one year from the date of issuance.

SECTION 2.071. Section 602.206(a), Occupations Code, is amended to read as follows:

(a) The medical board shall administer a written examination for a license to qualified applicants at least two times each year.

SECTION 2.072. Section 602.207(a), Occupations Code, is amended to read as follows:

(a) To be eligible to take an examination for a license, an applicant must:

(1) have a master's or doctoral degree from an accredited college or university that signifies the completion of courses approved by the medical board in physics, medical physics, biophysics, radiological physics, medical health physics, or equivalent courses;

(2) have demonstrated, to the medical board's satisfaction, completion of at least two years of full-time work experience in the five years preceding the date of application in the medical physics specialty for which application is made; and

(3) submit a completed application as required by Section 602.203.

SECTION 2.073. Section 602.208, Occupations Code, is amended to read as follows:

Sec. 602.208. EXAMINATION RESULTS; REEXAMINATION. (a) The medical board shall notify each examinee of the results of the examination not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national or state testing service, the medical board shall notify each examinee of the results of the examination not later than the 14th day after the date the medical board receives the results from the testing service.

(b) If the medical board learns that the notice of the examination results will be delayed for more than 90 days after the examination date, the medical board shall notify each examinee of the reason for the delay not later than the 90th day.

(c) If requested by a person who fails the examination, the medical board shall provide to the person an analysis of the person's performance on the examination.

(d) The medical board by rule shall establish procedures and requirements for reexamination of an applicant who fails the examination.

SECTION 2.074. Subchapter E, Chapter 602, Occupations Code, is amended by adding Section 602.2081 to read as follows:

Sec. 602.2081. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The medical board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the medical board, to the medical board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The medical board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The medical board shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the medical board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The medical board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 2.075. Sections 602.209(a), (b), (c), and (e), Occupations Code, are amended to read as follows:

(a) The medical board may issue a license to an eligible applicant who:

- (1) passes the examination under Section 602.206; and
- (2) meets all other license requirements.

(b) Not later than the 30th day after the date the medical board makes a decision on an application submitted under Section 602.203, the medical board shall notify the applicant of the decision.

(c) If the medical board approves the application, the medical board shall issue a license to the applicant. If the medical board denies the application, the medical board shall include in the notice of decision a description of the areas of deficiency.

(e) A license certificate is the medical board's property and must be surrendered on demand.

SECTION 2.076. Section 602.210, Occupations Code, is amended by amending Subsections (b), (c), (d), (e), and (f) and adding Subsection (g) to read as follows:

(b) The medical board by rule may adopt a system under which licenses expire on various dates during the year.

(c) A person may renew an unexpired license by paying the required renewal fee to the medical board before the expiration date of the license.

(d) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the medical board the required renewal fee and a penalty fee in an amount equal to one-half of the amount of the renewal fee.

(e) If a person's license has been expired for longer than 90 days but less than one year [~~two years~~], the person may renew the license by paying to the medical board the renewal fee that was due at expiration and a penalty fee in an amount equal to the amount of the renewal fee.

(f) If a person's license has been expired for one year [~~two years~~] or longer, the person may not renew the license. To obtain a new license, a person must comply with the requirements and procedures for obtaining an original license, including the examination requirement [~~application requirements of this chapter and must submit to the board:~~

~~(1) a supplemental experience record as required by the board;~~

~~(2) a description of professional activities undertaken during the expiration period;~~

~~(3) a list of current professional references; and~~

~~(4) a transcript for any degree or college credit earned since the person's previous license application].~~

(g) Not later than the 30th day before the date a person's license expires, the medical board shall send written notice of the impending license expiration to the person at the license holder's last known address according to the records of the medical board.

SECTION 2.077. Subchapter E, Chapter 602, Occupations Code, is amended by adding Section 602.2101 to read as follows:

Sec. 602.2101. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 602.2081.

(b) The medical board may not renew the license of a person who does not comply with the requirement of Subsection (a).

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 602.2081 for the initial issuance of the license; or

(2) this section as part of a prior renewal of the license.

SECTION 2.078. Section 602.211, Occupations Code, is amended to read as follows:

Sec. 602.211. LICENSE BY ENDORSEMENT OR RECIPROCITY. (a) On receipt of an application and fee under Section 602.203, the medical board may waive any prerequisite for obtaining a license to a person who holds a license to practice medical or radiological physics in another state, territory, or jurisdiction acceptable to the medical board that has requirements for the licensing of medical or radiological physicists that are substantially the same as the requirements of this chapter.

(b) The medical board may waive any prerequisite for obtaining a license to practice medical physics in this state for an applicant who holds a license issued by another jurisdiction with which this state has a reciprocity agreement. The medical board may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

SECTION 2.079. Section 602.212, Occupations Code, is amended to read as follows:

Sec. 602.212. LICENSE HOLDER DUTIES. A license holder shall:

(1) publicly display the license holder's license in an appropriate manner; and

(2) report immediately to the medical board any change in the license holder's address.

SECTION 2.080. Section 602.213, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 602.213. PROVISIONAL LICENSE. (a) The medical board may issue a provisional license to an applicant currently licensed or certified in another jurisdiction who seeks a license in this state and who:

(1) has been licensed or certified in good standing as a practitioner of medical or radiologic physics for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the medical board relating to the practice of medical or radiologic physics; and

(3) is sponsored by a person licensed by the medical board under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The medical board may waive the requirement of Subsection (a)(3) for an applicant if the medical board determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional license is valid until the date the medical board approves or denies the provisional license holder's application for a license. The medical board shall issue a license under this chapter to the provisional license holder if:

(1) the provisional license holder is eligible to be certified under Section 602.211; or

(2) the provisional license holder passes the part of the examination under Section 602.206 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of medical physics in this state and:

(A) the medical board verifies that the provisional license holder meets the academic and experience requirements for a license under this chapter; and

(B) the provisional license holder satisfies any other licensing requirements under this chapter.

(d) The medical board must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The medical board may extend the 180-day period if the results of an examination have not been received by the medical board before the end of that period.

(e) The medical board may establish a fee for provisional licenses.

SECTION 2.081. Section 602.251, Occupations Code, is amended to read as follows:

Sec. 602.251. GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. The medical board may ~~shall~~ refuse to issue or renew a license, suspend, restrict, or revoke a license, or reprimand a license holder for:

(1) obtaining or renewing a license by means of fraud, misrepresentation, or concealment of a material fact;

(2) having previously applied for or held a license issued by the licensing authority of another state, territory, or jurisdiction that was denied, suspended, or revoked by that licensing authority;

(3) engaging in unprofessional conduct that endangered or is likely to endanger the health, safety, or welfare of the public as defined by medical board rule;

(4) violating this chapter, a lawful order or rule of the medical board, or the medical board's code of ethics; or

(5) being convicted of:

(A) a felony; or

(B) a misdemeanor involving moral turpitude or that directly relates to the person's duties as a licensed medical physicist.

SECTION 2.082. Section 602.252, Occupations Code, is amended to read as follows:

Sec. 602.252. ADMINISTRATIVE PROCEDURE FOR CONTESTED CASE HEARING. Chapter ~~[Chapters]~~ 2001 ~~[and 2002]~~, Government Code, and medical board rules for a contested case hearing apply to a proceeding by the medical board under this chapter in which a formal complaint has been filed ~~[subchapter]~~.

SECTION 2.083. Subchapter F, Chapter 602, Occupations Code, is amended by adding Section 602.2521 to read as follows:

Sec. 602.2521. INFORMAL PROCEDURES. (a) The medical board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under Subsection (a) must:

(1) provide the complainant, if applicable and permitted by law, an opportunity to be heard;

(2) provide the license holder an opportunity to be heard; and

(3) require the medical board's legal counsel or a representative of the attorney general to be present to advise the medical board or the medical board's employees.

(c) Chapters 551 and 552, Government Code, do not apply to an investigation file and investigative information in the possession of or used by the medical board in an informal proceeding under this section.

SECTION 2.084. Section 602.253, Occupations Code, is amended to read as follows:

Sec. 602.253. PROBATION. The medical board may place on probation a person whose license is suspended. If a license suspension is probated, the medical board may require the person to:

(1) report regularly to the medical board [~~department~~] on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the medical board; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the medical board in those areas that are the basis of the probation.

SECTION 2.085. Section 602.254(a), Occupations Code, is amended to read as follows:

(a) The medical board or a three-member panel [~~committee~~] of medical board members designated by the president of the medical board shall temporarily suspend the license of a license holder if the medical board or panel [~~committee~~] determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

SECTION 2.086. Section 602.301, Occupations Code, is amended to read as follows:

Sec. 602.301. INJUNCTION. The medical board shall prosecute or file suit to enjoin a violation of this chapter or a rule adopted under this chapter.

SECTION 2.087. Section 602.3015, Occupations Code, is amended to read as follows:

Sec. 602.3015. CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted or order issued [~~adopted by the board~~] under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

(b) At the request of the medical board, the attorney general shall bring an action to recover a civil penalty authorized under this section.

SECTION 2.088. Sections 602.351(a), (e), (g), (h), (i), (j), (k), and (l), Occupations Code, are amended to read as follows:

(a) The medical board may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule adopted or order issued ~~[adopted]~~ under this chapter. A penalty collected under this subchapter shall be deposited in the state treasury in the general revenue fund.

(e) If the medical board ~~[executive secretary]~~ determines that a violation occurred, the medical board ~~[executive secretary]~~ shall give written notice ~~[of the report]~~ by certified mail to the person.

(g) Within 20 days after the date the person receives the notice under Subsection (e), the person in writing may:

(1) accept the determination and recommended penalty ~~[of the executive secretary]~~; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the medical board by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the medical board shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the medical board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the medical board by order may determine that:

(1) a violation occurred and impose a penalty; or

(2) a violation did not occur.

(l) The notice of the medical board's order under Subsection (k) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

SECTION 2.089. Sections 602.352(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) Within 30 days after the date an order of the medical board under Section 602.351(k) that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the medical board's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account;
or

(B) giving the court a supersedeas bond approved by the court that is:

(i) for the amount of the penalty; and

(ii) effective until all judicial review of the medical board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the medical board by certified mail.

(c) If the medical board receives a copy of an affidavit under Subsection (b)(2), the medical board may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

SECTION 2.090. Sections 603.002(2) and (3), Occupations Code, are amended to read as follows:

(2) "Advisory committee" [~~"Committee"~~] means the [~~Texas State~~] Perfusionist Licensure Advisory Committee.

(3) "Medical board" [~~"Department"~~] means the Texas Medical Board [~~Department of State Health Services~~].

SECTION 2.091. Section 603.006, Occupations Code, is amended to read as follows:

Sec. 603.006. APPLICABILITY OF OTHER LAW. Chapter 2110, Government Code, does not apply to the advisory committee.

SECTION 2.092. The heading to Subchapter B, Chapter 603, Occupations Code, is amended to read as follows:

SUBCHAPTER B. [~~TEXAS STATE~~] PERFUSIONIST LICENSURE ADVISORY COMMITTEE

SECTION 2.093. Section 603.051, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.051. ADVISORY COMMITTEE MEMBERSHIP. (a) The advisory committee is an informal advisory committee to the medical board. The advisory committee has no independent rulemaking authority.

(a-1) The advisory committee [~~Texas State Perfusionist Advisory Committee~~] consists of seven [~~five~~] members appointed by the president of the medical board [~~commissioner~~] as follows:

(1) four perfusionists licensed in this state [~~two licensed perfusionist members~~] who each have [~~been licensed under this chapter for~~] at least five [~~three~~] years of experience as a perfusionist [~~before the date of appointment~~];

(2) two physicians [~~one physician member~~] licensed in this state [~~by the Texas Medical Board~~] who supervise perfusionists [~~is certified by that board in cardiovascular surgery~~]; and

(3) one member [~~two members~~] who represents [~~represent~~] the public.

(b) Appointments to the advisory committee shall reflect the historical and cultural diversity of the inhabitants of this state.

(c) Appointments to the advisory committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

SECTION 2.094. Section 603.0511, Occupations Code, is amended to read as follows:

Sec. 603.0511. PUBLIC MEMBER ELIGIBILITY [~~OF PUBLIC MEMBERS~~]. A person may not be a public member of the advisory committee if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a [~~the field of~~] health care profession;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board [~~department~~];

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board [~~department~~]; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the medical board [~~department~~] other than compensation or reimbursement authorized by law for advisory committee membership, attendance, or expenses.

SECTION 2.095. Sections 603.052(b) and (c), Occupations Code, are amended to read as follows:

(b) A person may not be an advisory [~~a~~] committee member [~~and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.)~~] if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(c) A person may not be a member of the advisory committee or act as the general counsel to the advisory committee [~~or the department~~] if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory committee or medical board [~~department~~].

SECTION 2.096. Section 603.053, Occupations Code, is amended to read as follows:

Sec. 603.053. TERMS; VACANCY. (a) Members of the advisory committee serve two-year [~~staggered six-year~~] terms. The terms of the [~~one or two~~] members [~~as appropriate~~] expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the president of the medical board shall appoint a person to serve for the unexpired term.

SECTION 2.097. Sections 603.054(a) and (b), Occupations Code, are amended to read as follows:

(a) It is a ground for removal from the advisory committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 603.051;

(2) does not maintain during service on the advisory committee the qualifications required by Section 603.051;

(3) is ineligible for membership under Section 603.0511 or 603.052; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term[; or

~~[(5) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee].~~

(b) The validity of an action of the advisory committee is not affected by the fact that it is taken when a ground for removal of a member of the advisory committee exists.

SECTION 2.098. Section 603.056, Occupations Code, is amended to read as follows:

Sec. 603.056. OFFICERS. (a) The president of the medical board ~~[Not later than the 30th day after the date the commissioner appoints new committee members, the commissioner]~~ shall designate biennially an advisory committee member as the [a] presiding officer of the advisory committee to serve in that capacity at the will of the president. ~~[The presiding officer serves at the pleasure of the commissioner.]~~

(b) The advisory committee may appoint additional officers as necessary.

SECTION 2.099. Section 603.057, Occupations Code, is amended to read as follows:

Sec. 603.057. MEETINGS. The advisory committee shall meet as requested by the medical board ~~[subject to the call of the commissioner]~~. A meeting may be held by telephone conference call.

SECTION 2.100. The heading to Subchapter D, Chapter 603, Occupations Code, is amended to read as follows:

SUBCHAPTER D. MEDICAL BOARD POWERS AND DUTIES

SECTION 2.101. Section 603.151, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.151. GENERAL POWERS AND DUTIES ~~[OF DEPARTMENT]~~. The medical board ~~[department]~~ shall:

(1) establish the qualifications for a perfusionist to practice in this state, including rules governing character and conduct for applicants or license holders and fitness of applicants or license holders to practice ~~[for licenses, including renewed and reciprocal licenses];~~

(2) issue, revoke, restrict, suspend, ~~[or]~~ deny, cancel, or accept the surrender of a license~~[- probate a license suspension, or reprimand a license holder for a violation of this chapter, a rule adopted by the executive commissioner under this chapter, or the code of ethics adopted by the executive commissioner];~~

(3) charge fees that are reasonable and necessary to cover the costs of administering this chapter ~~[spend money necessary to administer the department's duties];~~

(4) establish requirements for an examination for a license under this chapter ~~[request and receive necessary assistance from another state agency, including a state educational institution];~~

(5) establish minimum education and training requirements necessary for a license under this chapter ~~[adopt an official seal]; [and]~~

(6) prescribe the application form for a license under this chapter;

(7) adopt and publish a [the] code of ethics;

(8) establish procedural rules governing investigations, informal hearings, the issuance of cease and desist orders, and disciplinary sanctions;

(9) conduct informal hearings concerning violations of this chapter or rules adopted under this chapter;

(10) issue disciplinary sanctions, including agreed orders and non-disciplinary remedial plans; and

(11) establish procedures for making a confidential referral to the Texas Physician Health Program established under Chapter 167, and for requiring participation in the program as a prerequisite for issuing or maintaining a license under this chapter ~~[adopted by the executive commissioner].~~

SECTION 2.102. Section 603.152, Occupations Code, is amended to read as follows:

Sec. 603.152. GENERAL RULEMAKING AUTHORITY. The medical board ~~[executive commissioner]~~ may adopt rules necessary to:

(1) regulate the practice of perfusion;

(2) enforce this chapter; and

(3) perform medical board ~~[department]~~ duties under this chapter.

SECTION 2.103. Section 603.153, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.153. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The medical board ~~[executive commissioner]~~ may not adopt a rule restricting advertising or competitive bidding by a person regulated by the medical board ~~[department]~~ under this chapter except to prohibit a false, misleading, or deceptive practice.

(b) The medical board ~~[executive commissioner]~~ may not include in rules to prohibit a false, misleading, or deceptive practice by a person regulated by the medical board ~~[department]~~ under this chapter a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of any advertisement by the person; or

(4) restricts the use by the person of a trade name in advertising.

SECTION 2.104. Section 603.1535, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.1535. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. (a) The medical board ~~[executive commissioner]~~ shall adopt rules necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

(b) In rules under this section, the medical board ~~[executive commissioner]~~ shall list the specific offenses for which a conviction would constitute grounds for the medical board ~~[department]~~ to take action under Section 53.021.

SECTION 2.105. Section 603.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subsection (a) to read as follows:

(a) The medical board ~~[After consulting the commissioner or the department, the executive commissioner]~~ shall set fees in amounts reasonable and necessary to cover the costs of administering this chapter.

SECTION 2.106. Section 603.155, Occupations Code, is amended to read as follows:

Sec. 603.155. ~~[EXECUTIVE COMMISSIONER AND DEPARTMENT]~~ DUTIES REGARDING COMPLAINTS. (a) The medical board ~~[executive commissioner]~~ by rule shall:

(1) adopt a form to standardize information concerning complaints made to the medical board ~~[department]~~; and

(2) prescribe information to be provided to a person when the person files a complaint with the medical board ~~[department]~~.

(b) The medical board ~~[department]~~ shall provide reasonable assistance to a person who wishes to file a complaint with the medical board ~~[department]~~.

SECTION 2.107. Section 603.156, Occupations Code, is amended to read as follows:

Sec. 603.156. REGISTRY. The medical board ~~[department]~~ shall prepare a registry of licensed perfusionists and provisionally licensed perfusionists that is available to the public, license holders, and appropriate state agencies.

SECTION 2.108. Section 603.201, Occupations Code, is amended to read as follows:

Sec. 603.201. PUBLIC INTEREST INFORMATION. (a) The medical board ~~[department]~~ shall prepare information of consumer interest describing the profession of perfusion, the regulatory functions of the medical board ~~[department]~~, and the procedures by which consumer complaints are filed with and resolved by the medical board ~~[department]~~.

(b) The medical board ~~[department]~~ shall make the information available to the public and appropriate state agencies.

SECTION 2.109. Section 603.202, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.202. COMPLAINTS. (a) The medical board ~~[executive commissioner]~~ by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the medical board ~~[department]~~ for the purpose of directing complaints under this chapter to the medical board ~~[department]~~. The medical board ~~[department]~~ may provide for that notice:

(1) on each license form, application, or written contract for services of a person licensed under this chapter;

(2) on a sign prominently displayed in the place of business of each person licensed under this chapter; or

(3) in a bill for services provided by a person licensed under this chapter.

(b) The medical board ~~[department]~~ shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

SECTION 2.110. Section 603.203, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.203. RECORDS OF COMPLAINTS. (a) The medical board ~~[department]~~ shall maintain a system to promptly and efficiently act on complaints filed ~~[with the department]~~ under this chapter. The medical board ~~[department]~~ shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint; and

(3) information about the disposition of the complaint.

(b) The medical board ~~[department]~~ shall make information available describing its procedures for complaint investigation and resolution.

(c) The medical board ~~[department]~~ shall periodically notify the parties of the status of the complaint until final disposition of the complaint.

SECTION 2.111. Section 603.204, Occupations Code, is amended by amending Subsections (a) and (d), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subsection (b) to read as follows:

(a) The medical board ~~[executive commissioner]~~ shall adopt rules concerning the investigation of a complaint filed ~~[with the department]~~ under this chapter. The rules shall:

(1) distinguish among categories of complaints;

(2) ensure that a complaint is not dismissed without appropriate consideration;

(3) require that if ~~[the department be advised of]~~ a complaint ~~[that]~~ is dismissed, ~~[and that]~~ a letter shall be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the medical board ~~[department]~~ to obtain the services of a private investigator.

(b) The medical board ~~[department]~~ shall:

(1) dispose of each complaint in a timely manner; and

(2) establish, not later than the 30th day after the date the medical board ~~[department]~~ receives a complaint, a schedule for conducting each phase of the complaint resolution process that is under the control of the medical board ~~[department]~~.

(d) The executive director of the medical board ~~[secretary]~~ shall notify the president of the medical board ~~[department]~~ of a complaint that is not resolved within the time prescribed by the medical board ~~[department]~~ for resolving the complaint so that the president ~~[department]~~ may take necessary action on the complaint.

SECTION 2.112. The heading to Section 603.2041, Occupations Code, is amended to read as follows:

Sec. 603.2041. SUBPOENAS; CONFIDENTIALITY OF INFORMATION.

SECTION 2.113. Section 603.2041, Occupations Code, is amended by amending Subsections (a), (h), and (i), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subsection (a-1) to read as follows:

(a) The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board ~~[In an investigation of a complaint filed with the department, the department]~~ may issue a subpoena or subpoena duces tecum:

(1) to conduct an investigation or a contested case proceeding related to:

(A) alleged misconduct by a perfusionist;

(B) an alleged violation of this chapter or another law related to the practice of perfusion; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter ~~[to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state].~~

(a-1) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the medical board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

(h) All information and materials subpoenaed or compiled by the medical board ~~[department]~~ in connection with a complaint and investigation under this chapter are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the medical board ~~[department]~~ or its agents or employees involved in discipline of the holder of a license, except that this information may be disclosed to:

(1) persons involved with the medical board ~~[department]~~ in a disciplinary action against the holder of a license under this chapter;

(2) professional perfusionist licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the medical board ~~[department]~~ under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the medical board ~~[department]~~ against a holder of a license under this chapter, the nature of those charges, disciplinary proceedings of the medical board ~~[department]~~, and final disciplinary actions,

including warnings and reprimands, by the medical board ~~[department]~~ are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION 2.114. Section 603.205, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.205. PUBLIC PARTICIPATION. (a) The medical board ~~[department]~~ shall develop and implement policies that provide the public with a reasonable opportunity to appear before the medical board ~~[department]~~ and to speak on any issue related to the practice of perfusion.

(b) The medical board ~~[department]~~ shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the medical board's ~~[department's]~~ programs under this chapter.

SECTION 2.115. Section 603.252(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The medical board ~~[department]~~ shall prescribe the application form and ~~[the executive commissioner]~~ by rule may establish dates by which applications and fees must be received.

SECTION 2.116. Sections 603.253(b), (c), (d), and (e), Occupations Code, are amended to read as follows:

(b) The medical board ~~[department]~~ shall prepare or approve an examination. The medical board ~~[department]~~ may prescribe an examination that consists of or includes a written examination given by the American Board of Cardiovascular Perfusion or by a national or state testing service.

(c) The medical board ~~[department]~~ shall have any written portion of the examination validated by an independent testing professional.

(d) The medical board ~~[department]~~ shall administer an examination to qualified applicants at least once each calendar year.

(e) On receipt of an application and application fee, the medical board ~~[department]~~ shall waive the examination requirement for an applicant who, at the time of application:

(1) is licensed or certified by another state that has licensing or certification requirements the medical board ~~[department]~~ determines to be substantially equivalent to the requirements of this chapter; or

(2) holds a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion before January 1, 1994, authorizing the holder to practice perfusion in a state that does not license or certify perfusionists.

SECTION 2.117. Sections 603.253(b) and (c), Occupations Code, are amended to read as follows:

(b) The medical board ~~[department]~~ shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, rules adopted under this chapter ~~[by the executive commissioner]~~, and any other applicable laws of this state affecting the applicant's practice of perfusion.

(c) The medical board [~~executive commissioner~~] shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

SECTION 2.118. Section 603.254, Occupations Code, is amended to read as follows:

Sec. 603.254. QUALIFICATION FOR EXAMINATION. (a) To qualify for the licensing examinations under this chapter, an applicant must have successfully completed a perfusion education program approved by the medical board [~~department~~].

(b) The medical board [~~department~~] may approve a perfusion education program only if the program has educational standards that are:

(1) at least as stringent as those established by the Accreditation Committee for Perfusion Education of the American Medical Association or its successor; and

(2) approved by the Commission on Accreditation of the Allied Health Education Program of the American Medical Association or its successor.

SECTION 2.119. Section 603.255(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The medical board [~~department~~] shall notify an applicant in writing of the receipt and investigation of the applicant's application and any other relevant evidence relating to qualifications established by [~~department~~] rule not later than:

(1) the 45th day after the date a properly submitted and timely application is received; and

(2) the 30th day before the next examination date.

SECTION 2.120. Section 603.256, Occupations Code, is amended to read as follows:

Sec. 603.256. EXAMINATION RESULTS. (a) The medical board [~~department~~] shall notify each examinee of the examination results not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national or state testing service, the medical board [~~department~~] shall notify each examinee of the examination results not later than the 14th day after the date the medical board [~~department~~] receives the results from the testing service.

(b) If the notice of the results of an examination graded or reviewed by a national or state testing service will be delayed for longer than 90 days after the examination date, the medical board [~~department~~] shall notify each examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the examination, the medical board [~~department~~] shall provide to the person an analysis of the person's performance on the examination.

SECTION 2.121. Section 603.257, Occupations Code, is amended to read as follows:

Sec. 603.257. REEXAMINATION AND ALTERNATIVES TO EXAMINATION. The medical board [~~executive commissioner~~] by rule shall establish:

- (1) a limit on the number of times an applicant who fails an examination may retake the examination;
- (2) requirements for retaking an examination; and
- (3) alternative methods of examining competency.

SECTION 2.122. Subchapter F, Chapter 603, Occupations Code, is amended by adding Section 603.2571 to read as follows:

Sec. 603.2571. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The medical board shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the medical board, to the medical board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The medical board may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c) The medical board shall conduct a criminal history check of each applicant for a license using information:

(1) provided by the individual under this section; and

(2) made available to the medical board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The medical board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 2.123. Section 603.259, Occupations Code, is amended by amending Subsections (a) and (d) and Subsection (c), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

(a) The medical board ~~[department]~~ may issue a provisional license to an applicant who files an application, pays an application fee, and submits evidence satisfactory to the medical board ~~[department]~~ of successful completion of the education requirement under Section 603.254.

(c) A provisionally licensed perfusionist must practice under the supervision and direction of a licensed perfusionist while performing perfusion. If the medical board ~~[department]~~ finds that a licensed perfusionist is not reasonably available to provide supervision and direction and if the medical board ~~[department]~~ approves an application submitted ~~[to the department]~~ by the provisionally licensed perfusionist, supervision and direction may be provided by a physician who is licensed by the medical board ~~[Texas Medical Board]~~ and certified by the American Board of Thoracic Surgery or certified in cardiovascular surgery by the American Osteopathic Board of Surgery.

(d) The medical board ~~[executive commissioner]~~ may not adopt a rule governing supervision and direction that requires the immediate physical presence of the supervising person.

SECTION 2.124. Sections 603.301(b), (c), (d), and (f), Occupations Code, are amended to read as follows:

(b) The medical board [~~executive commissioner~~] by rule may adopt a system under which licenses expire on various dates during the year.

(c) A person may renew an unexpired license by paying the required renewal fee to the medical board [~~department~~] before the license expiration date.

(d) A person whose license has been expired for 90 days or less may renew the license by paying to the medical board [~~department~~] a fee that is equal to 1-1/4 times the amount of the renewal fee. If a license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the medical board [~~department~~] a fee that is equal to 1-1/2 times the amount of the renewal fee.

(f) Before the 30th day before a person's license expiration date, the medical board [~~department~~] shall send written notice of the impending license expiration to the person at the person's last known address according to medical board [~~department~~] records.

SECTION 2.125. Section 603.303, Occupations Code, is amended to read as follows:

Sec. 603.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) The medical board [~~department~~] may renew without reexamination an expired license of a person who was licensed as a perfusionist in this state, moved to another state, and is licensed or certified and has been in practice in the other state for the two years preceding the date the person applies for renewal.

(b) The person must pay to the medical board [~~department~~] a fee that is equal to the amount of the renewal fee for the license.

SECTION 2.126. Subchapter G, Chapter 603, Occupations Code, is amended by adding Section 603.3031 to read as follows:

Sec. 603.3031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant renewing a license shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 603.2571.

(b) The medical board may not renew the license of a person who does not comply with the requirement of Subsection (a).

(c) A license holder is not required to submit fingerprints under this section for the renewal of the license if the license holder has previously submitted fingerprints under:

(1) Section 603.2571 for the initial issuance of the license; or

(2) this section as part of a prior renewal of the license.

SECTION 2.127. Section 603.304, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.304. CONTINUING EDUCATION. (a) To renew a license under this chapter, a person must submit proof satisfactory to the medical board [~~department~~] that the person has complied with the continuing education requirements prescribed by the medical board [~~executive commissioner~~].

(b) The medical board ~~[executive commissioner]~~ shall establish continuing education programs for licensed perfusionists and provisionally licensed perfusionists under this chapter. The standards of the programs must be at least as stringent as the standards of the American Board of Cardiovascular Perfusion or its successor.

(c) The medical board ~~[executive commissioner]~~ shall:

(1) establish a minimum number of hours of continuing education required for license renewal under this chapter; and

(2) develop a process to evaluate and approve continuing education courses.

(d) The medical board ~~[executive commissioner]~~ shall identify key factors for a license holder's competent performance of professional duties. The medical board ~~[executive commissioner]~~ shall adopt a procedure to assess a license holder's participation in continuing education programs.

SECTION 2.128. Section 603.305, Occupations Code, is amended to read as follows:

Sec. 603.305. GROUNDS FOR REFUSING RENEWAL. The medical board ~~[department]~~ may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter K unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

SECTION 2.129. Section 603.352, Occupations Code, is amended to read as follows:

Sec. 603.352. LICENSE HOLDER INFORMATION. A person licensed under this chapter shall keep the medical board ~~[department]~~ informed of any change in the license holder's address.

SECTION 2.130. Section 603.353, Occupations Code, is amended to read as follows:

Sec. 603.353. SURRENDER OF LICENSE. A license certificate issued by the medical board ~~[department]~~ is the property of the medical board ~~[department]~~ and shall be surrendered on demand.

SECTION 2.131. Section 603.401, Occupations Code, is amended to read as follows:

Sec. 603.401. GROUNDS FOR DISCIPLINARY ACTION. If a license holder violates this chapter or a rule or code of ethics adopted under this chapter ~~[by the executive commissioner]~~, the medical board may ~~[department shall]~~:

(1) revoke, restrict, or suspend the license;

(2) place on probation the person if the person's license has been suspended;

(3) reprimand the license holder; or

(4) refuse to renew the license.

SECTION 2.132. Section 603.402, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.402. CONTESTED CASE HEARING. Chapter 2001, Government Code, and medical board rules for a contested case hearing apply to a proceeding by the medical board under this chapter in which a formal complaint has been filed ~~[(a) If the department proposes to revoke, suspend, or refuse to renew a person's license, the person is entitled to a hearing before a hearings officer appointed by the State Office of Administrative Hearings].~~

~~[(b) The executive commissioner shall prescribe procedures for appealing to the department a decision to revoke, suspend, or refuse to renew a license.]~~

SECTION 2.133. Section 603.404(a), Occupations Code, is amended to read as follows:

(a) The medical board ~~[executive commissioner]~~ by rule shall adopt a broad schedule of sanctions for a violation of this chapter.

SECTION 2.134. Section 603.405, Occupations Code, is amended to read as follows:

Sec. 603.405. PROBATION. The medical board ~~[department]~~ may require a person whose license suspension is probated to:

(1) report regularly to the medical board ~~[department]~~ on matters that are the basis of the probation;

(2) limit practice to areas prescribed by the medical board ~~[department]~~; or

(3) continue the person's professional education until the license holder attains a degree of skill satisfactory to the medical board ~~[department]~~ in those areas that are the basis of the probation.

SECTION 2.135. Section 603.406, Occupations Code, is amended to read as follows:

Sec. 603.406. MONITORING OF LICENSE HOLDER. (a) The medical board ~~[executive commissioner]~~ by rule shall develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Rules adopted under this section must include procedures to:

(1) monitor for compliance a license holder who is ordered by the medical board ~~[department]~~ to perform certain acts; and

(2) identify and monitor license holders who represent a risk to the public.

SECTION 2.136. Section 603.407, Occupations Code, is amended to read as follows:

Sec. 603.407. INFORMAL PROCEDURES. (a) The medical board ~~[executive commissioner]~~ by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under Subsection (a) must:

(1) provide the complainant, if applicable and permitted by law, an opportunity to be heard;

(2) provide [and] the license holder an opportunity to be heard; and

(3) ~~(2)~~ require the presence of a representative of the attorney general or the medical board's [department's] legal counsel to advise the medical board [department] or the medical board's [department's] employees.

(c) Chapters 551 and 552, Government Code, do not apply to an investigation file and investigative information in the possession of or used by the medical board in an informal proceeding under this section.

SECTION 2.137. Section 603.408(a), Occupations Code, is amended to read as follows:

(a) The medical board or a three-member panel of medical board members designated by the president of the medical board [~~department~~] shall temporarily suspend the license of a license holder if the medical board or panel [~~department~~] determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

SECTION 2.138. Section 603.409, Occupations Code, is amended to read as follows:

Sec. 603.409. REFUND. (a) Subject to Subsection (b), the medical board [~~department~~] may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The medical board [~~department~~] may not require payment of other damages or estimate harm in a refund order.

SECTION 2.139. Section 603.451(a), Occupations Code, is amended to read as follows:

(a) The medical board [~~department~~] may request the attorney general or the appropriate county or district attorney to commence an action to enjoin a violation of this chapter.

SECTION 2.140. Section 603.4515, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.4515. CIVIL PENALTY. (a) A person who violates this chapter ~~or~~ a rule adopted ~~[by the executive commissioner under this chapter.]~~ or an order issued ~~[adopted by the department]~~ under this chapter is liable for a civil penalty not to exceed \$5,000 a day.

(b) At the request of the medical board [~~department~~], the attorney general shall bring an action to recover a civil penalty authorized under this section.

SECTION 2.141. Section 603.453(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) If it appears to the medical board [~~department~~] that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the practice of perfusion, the medical board [~~department~~] after notice and an opportunity for a hearing may issue a cease and desist order prohibiting the person from engaging in the activity.

SECTION 2.142. Section 603.501, Occupations Code, is amended to read as follows:

Sec. 603.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The medical board [~~department~~] may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

SECTION 2.143. Section 603.502(c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) The medical board [~~executive commissioner~~] by rule shall adopt an administrative penalty schedule based on the criteria listed in Subsection (b) for violations of this chapter or applicable rules to ensure that the amounts of penalties imposed are appropriate to the violation. The medical board [~~department~~] shall provide the administrative penalty schedule to the public on request.

SECTION 2.144. Section 603.503, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.503. NOTICE OF VIOLATION AND PENALTY. If the medical board [~~department~~] determines that a violation occurred, the medical board [~~department~~] shall give written notice of the violation to the person. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended administrative penalty [~~recommended by the department~~]; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

SECTION 2.145. Section 603.504, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.504. PENALTY TO BE PAID OR HEARING REQUESTED.

(a) Within 10 days after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended administrative penalty of the medical board [~~department~~]; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty of the medical board [~~department~~], the medical board [~~department~~] by order shall approve the determination and impose the recommended penalty.

SECTION 2.146. Sections 603.505(a) and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) If the person requests a hearing or fails to respond in a timely manner to the notice, the medical board [~~department~~] shall set a hearing and give written notice of the hearing to the person.

(c) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the medical board [~~department~~] a proposal for a decision about the occurrence of the violation and the amount of a proposed administrative penalty.

SECTION 2.147. Section 603.506, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 603.506. DECISION BY MEDICAL BOARD [~~DEPARTMENT~~].

(a) Based on the findings of fact, conclusions of law, and proposal for decision, the medical board [~~department~~] by order may determine that:

- (1) a violation occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The notice of the medical board's ~~[department's]~~ order given to the person must include a statement of the right of the person to judicial review of the order.

SECTION 2.148. Sections 603.507(a), (b), and (c), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) Within 30 days after the date the medical board's ~~[department's]~~ order becomes final, the person shall:

(1) pay the administrative penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account;

or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the medical board's ~~[department's]~~ order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the medical board ~~[department]~~ by certified mail.

(c) If the medical board ~~[department]~~ receives a copy of an affidavit under Subsection (b)(2), the medical board ~~[department]~~ may file with the court, within five days after the date the copy is received, a contest to the affidavit.

SECTION 2.149. Sections 604.001(1) and (2), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(1) "Advisory board" means the Texas Board of Respiratory Care ~~["Department" means the Department of State Health Services]~~.

(2) "Medical board" means the Texas Medical Board ~~["Executive commissioner" means the executive commissioner of the Health and Human Services Commission]~~.

SECTION 2.150. Section 604.003, Occupations Code, is amended to read as follows:

Sec. 604.003. EFFECT OF CHAPTER. This chapter does not prohibit:

(1) the practice of respiratory care as an integral part of the program of study by a student enrolled in a respiratory care education program approved by the advisory board ~~[department]~~;

(2) the employment by a health care facility of a person to deliver limited respiratory care support services under the supervision of another person who holds a certificate issued under this chapter, if the person delivering the services does not

perform an invasive procedure related to critical respiratory care, including a therapeutic, diagnostic, or palliative procedure, as part of the person's employment and if that person:

(A) is enrolled for credit in the clinical portion of an approved respiratory care education program; or

(B) has completed all of the clinical portion of an approved respiratory care education program within the preceding 12 months and is actively pursuing a course of study leading to graduation from the program;

(3) the care of an ill person provided without charge by a friend or family member;

(4) care provided in an emergency by a person who does not claim to be a respiratory care practitioner;

(5) the performance by a respiratory care practitioner of an advance in the art and techniques of respiratory care learned through formal or specialized training;

(6) the practice of respiratory care by health care personnel who have been formally trained in the care used and who are:

(A) licensed under the law regulating their professions; or

(B) acting under the delegated authority of a licensed physician;

(7) the practice of a legally qualified respiratory care practitioner who is discharging the practitioner's official duties as an employee of the United States government; or

(8) the practice by a person of a profession or occupation for which the person is licensed, registered, or certified under another law of this state.

SECTION 2.151. Chapter 604, Occupations Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TEXAS BOARD OF RESPIRATORY CARE

Sec. 604.021. TEXAS BOARD OF RESPIRATORY CARE. The Texas Board of Respiratory Care is an advisory board to the Texas Medical Board.

Sec. 604.022. APPOINTMENT OF ADVISORY BOARD. (a) The advisory board consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) four respiratory care practitioners who each have at least five years of experience as a respiratory care practitioner;

(2) two physicians licensed in this state who supervise respiratory care practitioners; and

(3) three members who represent the public.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 604.023. MEMBERSHIP ELIGIBILITY AND RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a public member of the advisory board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a health care profession;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the medical board or advisory board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the medical board or advisory board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the medical board or advisory board other than compensation or reimbursement authorized by law for advisory board membership, attendance, or expenses.

(c) A person may not be a member of the advisory board if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(d) A person may not be a member of the advisory board or act as the general counsel to the advisory board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the medical board or advisory board.

Sec. 604.024. TERMS; VACANCIES. (a) Members of the advisory board are appointed for staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

(b) A member may not serve more than:

(1) two consecutive full terms; or

(2) a total of three full terms.

(c) If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.

Sec. 604.025. OFFICERS. The governor shall designate a member of the advisory board as the presiding officer of the advisory board to serve in that capacity at the will of the governor. The advisory board shall select from its membership an assistant presiding officer and other officers as the advisory board considers necessary to carry out the advisory board's duties.

Sec. 604.026. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the advisory board that a member:

(1) does not have at the time of taking office the qualifications required by Sections 604.022 and 604.023;

(2) does not maintain during service on the advisory board the qualifications required by Sections 604.022 and 604.023;

(3) is ineligible for membership under Section 604.023;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board.

(b) The validity of an action of the advisory board is not affected by the fact that it is taken when a ground for removal of an advisory board member exists.

(c) If the executive director of the medical board has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the advisory board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the advisory board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 604.027. PER DIEM. A member of the advisory board is entitled to receive a per diem as set by legislative appropriation for each day that the member engages in the business of the advisory board.

Sec. 604.028. APPLICATION OF OPEN MEETINGS, OPEN RECORDS, AND ADMINISTRATIVE PROCEDURE LAWS. Except as otherwise provided by this chapter, the advisory board is subject to Chapters 551, 552, and 2001, Government Code.

Sec. 604.029. MEETINGS; QUORUM REQUIREMENTS. (a) The advisory board shall conduct regular meetings at least three times a year at the times and places the advisory board considers most convenient for applicants and advisory board members.

(b) The advisory board may hold special meetings in accordance with rules adopted by the advisory board and approved by the medical board.

(c) A majority of the advisory board members constitutes a quorum for all purposes except for an advisory board activity related to examining the credentials of applicants, acting as a panel for disciplinary action under Section 604.202, or conducting an informal meeting under Section 604.209.

Sec. 604.030. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter and the advisory board's programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the advisory board;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(4) any applicable ethics policies adopted by the advisory board or the Texas Ethics Commission.

(c) A person appointed to the advisory board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 2.152. The heading to Subchapter B, Chapter 604, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF ADVISORY BOARD
~~[EXECUTIVE COMMISSIONER]~~ AND ~~MEDICAL BOARD~~ ~~[DEPARTMENT]~~

SECTION 2.153. The heading to Section 604.052, Occupations Code, is amended to read as follows:

Sec. 604.052. GENERAL POWERS AND DUTIES OF ADVISORY BOARD
[RULES].

SECTION 2.154. Section 604.052(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The advisory board ~~[executive commissioner by rule]~~ shall:

(1) adopt rules that are reasonable and necessary for the performance of the advisory board's duties under this chapter, as provided by Chapter 2001, Government Code, including rules to establish:

(A) the certification and permitting program;

(B) minimum qualifications for respiratory care practitioners;

(C) standards of conduct and fitness for respiratory care practitioners;

(D) grounds for disciplinary actions;

(E) procedures for disciplinary proceedings;

(F) guidelines for the issuance of sanctions;

(G) procedures for non-disciplinary remedial plans; and

(H) procedures for requiring an applicant for or holder of a certificate or temporary permit to submit to:

(i) an examination of the applicant's or holder's physical or mental health; and

(ii) screening for alcohol or substance abuse or behavioral issues;

(2) review and approve or reject each application for the issuance or renewal of a certificate or temporary permit;

(3) adopt procedures for the issuance or renewal of each certificate or permit;

(4) deny, suspend, restrict, cancel, or revoke ~~[standards for issuing, denying, renewing, suspending, suspending on an emergency basis, or revoking]~~ a certificate or temporary permit or otherwise discipline a certificate or permit holder; and

(5) take any other action necessary to carry out the functions and duties of the advisory board under this chapter.

SECTION 2.155. Subchapter B, Chapter 604, Occupations Code, is amended by adding Sections 604.0521 and 604.0522 to read as follows:

Sec. 604.0521. GUIDELINES FOR EARLY INVOLVEMENT IN RULEMAKING PROCESS. (a) The advisory board shall adopt guidelines to establish procedures for receiving input during the rulemaking process from individuals and groups that have an interest in matters under the advisory board's jurisdiction. The guidelines must provide an opportunity for those individuals and groups to provide input before the advisory board submits the rule to the medical board for approval.

(b) A rule adopted under this chapter may not be challenged on the grounds that the advisory board did not comply with this section. If the advisory board was unable to solicit a significant amount of input from the public or affected persons early in the rulemaking process, the advisory board shall state in writing the reasons why it was unable to do so.

Sec. 604.0522. POWERS AND DUTIES OF MEDICAL BOARD RELATING TO RESPIRATORY CARE PRACTITIONERS. (a) The medical board shall adopt rules consistent with this chapter to regulate:

(1) respiratory care practitioners; and

(2) physicians who supervise respiratory care practitioners.

(b) The medical board, by a majority vote, shall approve or reject each rule adopted by the advisory board. If approved, the rule may take effect. If the rule is rejected, the medical board shall return the rule to the advisory board for revision.

SECTION 2.156. Section 604.053, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.053. FEES. (a) The advisory board ~~[executive commissioner]~~ by rule shall set fees for an application, examination, certificate, temporary permit, permit and certificate renewal, and certificate reinstatement.

(b) The advisory board ~~[executive commissioner]~~ by rule shall set fees in reasonable amounts that are sufficient to cover the costs of administering this chapter. ~~[The executive commissioner shall set fees for issuing or renewing a certificate or permit in amounts designed to allow the department to recover from the certificate and permit holders all of the department's direct and indirect costs in administering and enforcing this chapter.]~~

SECTION 2.157. Section 604.054, Occupations Code, is amended to read as follows:

Sec. 604.054. APPROVAL OF EDUCATION PROGRAMS. In determining whether to approve a respiratory care education program, the advisory board ~~[department]~~ shall consider relevant information about the quality of the program, including accreditation of the program by a professional medical association, such as the Commission on Accreditation of Allied Health Education Programs.

SECTION 2.158. Section 604.055, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.055. PEER ASSISTANCE PROGRAM. The advisory board ~~[department]~~ may use the Texas Physician Health Program established under Chapter 167 as the advisory board's [establish, approve, and fund a] ~~[establish, approve, and fund a]~~ peer assistance program [in accordance with Section 467.003, Health and Safety Code, and department rules]. The advisory board by rule may establish procedures for making a confidential referral to the Texas Physician Health Program and for requiring participation in the program as a prerequisite for issuing or maintaining a certificate or temporary permit under this chapter.

SECTION 2.159. Section 604.057, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.057. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The advisory board [~~executive commissioner~~] may not adopt rules restricting advertising or competitive bidding by a temporary permit or certificate holder except to prohibit false, misleading, or deceptive practices.

(b) In adopting rules to prohibit false, misleading, or deceptive practices, the advisory board [~~executive commissioner~~] may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a temporary permit or certificate holder's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the temporary permit or certificate holder; or
- (4) restricts the temporary permit or certificate holder's advertisement under a trade name.

SECTION 2.160. Subchapter B, Chapter 604, Occupations Code, is amended by adding Sections 604.058, 604.059, and 604.060 to read as follows:

Sec. 604.058. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.
The advisory board shall adopt rules and guidelines as necessary to comply with Chapter 53, except to the extent the requirements of this chapter are stricter than the requirements of Chapter 53.

Sec. 604.059. ASSISTANCE BY MEDICAL BOARD; DIVISION OF RESPONSIBILITIES. (a) The medical board shall provide administrative and clerical employees as necessary to enable the advisory board to administer this chapter.

(b) Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that clearly separate the policy-making responsibilities of the advisory board and the management responsibilities of the executive director and staff of the medical board.

Sec. 604.060. PUBLIC PARTICIPATION. Subject to the advice and approval of the medical board, the advisory board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory board and to speak on any issue under the jurisdiction of the advisory board.

SECTION 2.161. Section 604.101(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) A person may not practice respiratory care other than under the direction of a qualified medical director or other physician licensed by the medical board [~~Texas Medical Board~~].

SECTION 2.162. Section 604.103, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.103. APPLICATION; APPLICATION FEE. An applicant for a certificate or temporary permit must:

(1) apply to the advisory board [~~department~~] on a form prescribed by [~~the department~~] and under rules adopted by the advisory board [~~executive commissioner~~]; and

(2) submit a nonrefundable application fee with the application.

SECTION 2.163. Subchapter C, Chapter 604, Occupations Code, is amended by adding Section 604.1031 to read as follows:

Sec. 604.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR CERTIFICATE OR TEMPORARY PERMIT. (a) The advisory board shall require that an applicant for a certificate or temporary permit submit a complete and legible set of fingerprints, on a form prescribed by the advisory board, to the advisory board or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The advisory board may not issue a certificate or temporary permit to a person who does not comply with the requirement of Subsection (a).

(c) The advisory board shall conduct a criminal history check of each applicant for a certificate or temporary permit using information:

(1) provided by the individual under this section; and

(2) made available to the advisory board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The advisory board may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SECTION 2.164. Section 604.104, Occupations Code, is amended to read as follows:

Sec. 604.104. REQUIREMENT FOR CERTIFICATE. An applicant for a certificate must submit to the advisory board ~~[department]~~ written evidence, verified by oath, that the applicant has completed:

(1) an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency; and

(2) a respiratory care education program approved by the advisory board ~~[department]~~.

SECTION 2.165. Section 604.1041, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.1041. EXAMINATION. (a) The advisory board ~~[executive commissioner]~~ by rule shall establish examination requirements for a certificate under this chapter. The advisory board ~~[executive commissioner]~~ may use the entry level examination prepared by the National Board for Respiratory Care or an equivalent examination.

(b) An applicant for a certificate or temporary permit must pass a jurisprudence examination approved by the advisory board.

SECTION 2.166. Section 604.1042, Occupations Code, is amended to read as follows:

Sec. 604.1042. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes a certification examination under this chapter, the advisory board ~~[department]~~ shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service, the advisory board ~~[department]~~ shall notify the person of the results of the examination not later than the 14th day after the date the advisory board ~~[department]~~ receives the results from the testing service. If notice of the examination results will be delayed for longer than 90 days after the examination date, the advisory board ~~[department]~~ shall notify the person of the reason for the delay before the 90th day.

(c) The advisory board ~~[department]~~ may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a certification examination administered under this chapter, the advisory board ~~[department]~~ shall furnish the person with an analysis of the person's performance on the examination.

SECTION 2.167. Section 604.105, Occupations Code, is amended to read as follows:

Sec. 604.105. ISSUANCE OF CERTIFICATE. The advisory board ~~[department]~~ shall issue a certificate to an applicant who:

(1) meets the minimum qualifications ~~[standards]~~ adopted under Section 604.052(a);

(2) passes the required examinations;

(3) complies with the criminal history record information requirement of Section 604.1031;

(4) submits an application on a form prescribed by the advisory board;

(5) certifies that the applicant is mentally and physically able to be a respiratory care practitioner;

(6) submits to the advisory board any other information the advisory board considers necessary to evaluate the applicant's qualifications; and

(7) pays the certificate fee.

SECTION 2.168. Section 604.106, Occupations Code, is amended to read as follows:

Sec. 604.106. ISSUANCE OF CERTIFICATE BY RECIPROCITY. The advisory board ~~[department]~~ may issue a certificate to a person who is licensed or certified to practice respiratory care by another state whose requirements for licensure or certification were on the date the license or certificate was issued substantially equal to the requirements of this chapter.

SECTION 2.169. Section 604.107, Occupations Code, is amended to read as follows:

Sec. 604.107. REQUIREMENTS FOR TEMPORARY PERMIT. An applicant for a temporary permit to practice respiratory care must submit to the advisory board:

(1) ~~[department]~~ written evidence, verified by oath, that the applicant is:

(A) ~~(+)~~ practicing or has within the 12-month period preceding the application date practiced respiratory care in another state or country and is licensed to practice respiratory care in that state or country;

(B) ~~(2)~~ a student in an approved respiratory care education program who expects to graduate from the program not later than the 30th day after the date the temporary permit is issued; or

(C) ~~(3)~~ a graduate of an approved respiratory care education program;
and

(2) any additional information required by advisory board rules.

SECTION 2.170. Section 604.108, Occupations Code, is amended by amending Subsection (a) and Subsection (b), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

(a) The advisory board ~~[department]~~ shall issue a temporary permit to an applicant who:

(1) meets the requirements of Sections 604.103 and 604.107;

(2) complies with the criminal history record information requirement of Section 604.1031; and

(3) pays the permit fee.

(b) A temporary permit is valid for the period set by advisory board ~~[department]~~ rule. The period may not be less than six months or more than 12 months.

SECTION 2.171. Subchapter C, Chapter 604, Occupations Code, is amended by adding Section 604.110 to read as follows:

Sec. 604.110. DELEGATION OF AUTHORITY TO ISSUE CERTIFICATE OR TEMPORARY PERMIT. The advisory board may delegate authority to medical board employees to issue certificates or temporary permits under this chapter to applicants who clearly meet all applicable requirements. If the medical board employees determine that the applicant does not clearly meet all applicable requirements, the application must be returned to the advisory board. A certificate or temporary permit issued under this section does not require formal advisory board approval.

SECTION 2.172. Section 604.151(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The advisory board ~~[executive commissioner]~~ by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the certificate expiration date is changed, the advisory board ~~[department]~~ shall prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

SECTION 2.173. Section 604.152, Occupations Code, is amended to read as follows:

Sec. 604.152. NOTICE OF CERTIFICATE RENEWAL. (a) Not later than the 30th day before the expiration date of a person's certificate, the advisory board ~~[department]~~ shall mail a renewal notice to the person at the person's last known address.

(b) To renew a certificate, the certificate holder must:

(1) complete the renewal notice and return the notice with the renewal fee to the advisory board ~~[department]~~ on or before the expiration date; and

(2) meet any other requirement established by advisory board rule.

SECTION 2.174. Sections 604.1521(a) and (b), Occupations Code, are amended to read as follows:

(a) A person whose certificate has been expired for 90 days or less may renew the certificate by paying to the advisory board ~~[department]~~ a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(b) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the advisory board ~~[department]~~ a renewal fee that is equal to two times the normally required renewal fee.

SECTION 2.175. Section 604.1522(b), Occupations Code, is amended to read as follows:

(b) The person must pay to the advisory board ~~[department]~~ a fee that is equal to two times the normally required renewal fee for the certificate.

SECTION 2.176. Subchapter D, Chapter 604, Occupations Code, is amended by adding Section 604.1523 to read as follows:

Sec. 604.1523. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) An applicant for renewal of a certificate or temporary permit shall submit a complete and legible set of fingerprints for purposes of performing a criminal history check of the applicant as provided by Section 604.1031.

(b) The advisory board may not renew the certificate or temporary permit of a person who does not comply with the requirement of Subsection (a).

(c) A person is not required to submit fingerprints under this section for the renewal of a certificate or temporary permit if the person has previously submitted fingerprints under:

(1) Section 604.1031 for the initial issuance of the certificate or permit; or

(2) this section as part of a prior renewal of a certificate or permit.

SECTION 2.177. Section 604.153(a), Occupations Code, is amended to read as follows:

(a) The advisory board ~~[department]~~ shall issue to the certificate holder a certificate for the renewal period on receipt of the completed renewal notice and other information required by advisory board rule and payment of the renewal fee.

SECTION 2.178. Section 604.154, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.154. CONTINUING EDUCATION REQUIREMENTS. (a) The advisory board ~~[executive commissioner]~~ shall establish for the renewal of a certificate uniform continuing education requirements of not less than 12 or more than 24 continuing education hours for each renewal period.

(b) The advisory board ~~[executive commissioner]~~ may adopt rules relating to meeting the continuing education requirements in a hardship situation.

SECTION 2.179. Section 604.156, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.156. INACTIVE STATUS. (a) A respiratory care practitioner who does not practice respiratory care during a renewal period and who notifies the advisory board [department] that the practitioner is not practicing respiratory care is not required to pay the renewal fee until the practitioner resumes practice.

(b) To resume the practice of respiratory care, the practitioner must:

(1) notify the advisory board [department];

(2) satisfy requirements adopted by the advisory board [executive commissioner]; and

(3) pay the reinstatement fee and the renewal fee for the renewal period in which the practitioner will resume practice.

SECTION 2.180. Section 604.157(b), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The advisory board [department] may renew a temporary permit for not more than one additional period, pending compliance with this chapter and advisory board [department] rules. The additional period may not be less than six months or more than 12 months.

SECTION 2.181. Chapter 604, Occupations Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. COMPLAINTS AND INVESTIGATIVE INFORMATION

Sec. 604.171. COMPLAINT INFORMATION AND STATUS. (a) The advisory board shall maintain a system to promptly and efficiently act on complaints filed with the advisory board. The advisory board shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint;
and

(3) information about the disposition of the complaint.

(b) The advisory board shall make information available describing its procedures for complaint investigation and resolution.

(c) If a written complaint is filed with the advisory board relating to a certificate or temporary permit holder, the advisory board, as often as quarterly and until final determination of the action to be taken on the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an active investigation.

Sec. 604.172. CONDUCT OF INVESTIGATION. The advisory board shall complete a preliminary investigation of a complaint filed with the advisory board not later than the 45th day after the date of receiving the complaint. The advisory board shall first determine whether the person constitutes a continuing threat to the public welfare. On completion of the preliminary investigation, the advisory board shall determine whether to officially proceed on the complaint. If the advisory board fails to complete the preliminary investigation in the time required by this section, the advisory board's official investigation of the complaint is considered to commence on that date.

Sec. 604.173. ACCESS TO COMPLAINT INFORMATION. (a) Except as provided by Subsection (b), the advisory board shall provide a person who is the subject of a formal complaint filed under this chapter with access to all information in its possession that the advisory board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. The advisory board shall provide the information not later than the 30th day after receipt of a written request from the person or the person's counsel, unless good cause is shown for delay.

(b) The advisory board is not required to provide:

- (1) advisory board investigative reports;
- (2) investigative memoranda;
- (3) the identity of a nontestifying complainant;
- (4) attorney-client communications;
- (5) attorney work product; or
- (6) other material covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) Providing information under this section does not constitute a waiver of privilege or confidentiality under this chapter or other law.

Sec. 604.174. HEALTH CARE ENTITY REQUEST FOR INFORMATION. On the written request of a health care entity, the advisory board shall provide to the entity:

(1) information about a complaint filed against a person that was resolved after investigation by:

- (A) a disciplinary order of the advisory board; or
- (B) an agreed settlement; and

(2) the basis of and current status of any complaint that has been referred by the executive director of the medical board for enforcement action.

Sec. 604.175. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION. A complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the advisory board, the medical board, or an employee or agent of the medical board relating to a certificate or temporary permit holder, an application for a certificate or temporary permit, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the advisory board, the medical board, or an employee or agent of the advisory board or medical board involved in discipline under this chapter. For purposes of this section, "investigative information" includes information related to the identity of a person performing or supervising compliance monitoring for the advisory board or medical board and a report prepared by the person related to compliance monitoring.

Sec. 604.176. PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board that relates to the discipline of a certificate or temporary permit holder may be disclosed to:

(1) a licensing authority in another state or country in which the certificate or temporary permit holder is licensed, certified, or permitted or has applied for a license, certification, or permit; or

(2) a medical peer review committee reviewing:

(A) an application for privileges; or

(B) the qualifications of the certificate holder or person with respect to retaining privileges.

(b) If investigative information in the possession of the advisory board, the medical board, or an employee or agent of the medical board indicates that a crime may have been committed, the advisory board or medical board, as appropriate, shall report the information to the proper law enforcement agency. The advisory board and medical board shall cooperate with and assist each law enforcement agency conducting a criminal investigation of a certificate or temporary permit holder by providing information relevant to the investigation. Confidential information disclosed to a law enforcement agency under this subsection remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

SECTION 2.182. Section 604.201, Occupations Code, is amended to read as follows:

Sec. 604.201. DISCIPLINARY ACTION. (a) For a violation of this chapter or a rule adopted under this chapter, the advisory board ~~[department]~~ may:

(1) deny, suspend, suspend on an emergency basis, restrict, revoke, or refuse to renew a certificate or temporary permit;

(2) place the certificate or permit holder on probation under conditions set by the advisory board ~~[department]~~; or

(3) reprimand the certificate or permit holder.

(b) The advisory board ~~[department]~~ shall take disciplinary action authorized under Subsection (a) if the advisory board ~~[department]~~ determines that a person who holds a certificate or temporary permit:

(1) is guilty of fraud or deceit in procuring, renewing, or attempting to procure a certificate or temporary permit;

(2) is unfit or incompetent because of negligence or another cause of incompetency;

(3) is addicted to or has improperly obtained, possessed, used, or distributed a habit-forming drug or narcotic or is habitually intemperate in the use of alcoholic beverages;

(4) is guilty of dishonest or unethical conduct as determined by the advisory board ~~[department]~~;

(5) has practiced respiratory care after the person's certificate or temporary permit has expired;

(6) has practiced respiratory care under a certificate or temporary permit illegally or fraudulently obtained or issued;

(7) has practiced respiratory care without the direction of a qualified medical director or other licensed physician; ~~[or]~~

(8) has violated this chapter or aided or abetted another in violating this chapter; or

(9) has violated:

(A) a rule adopted under this chapter;

(B) an order of the advisory board previously entered in a disciplinary proceeding; or

(C) an order to comply with a subpoena issued under this chapter.

SECTION 2.183. Subchapter E, Chapter 604, Occupations Code, is amended by adding Section 604.2011 to read as follows:

Sec. 604.2011. SURRENDER OF CERTIFICATE OR TEMPORARY PERMIT.

(a) The advisory board may accept the voluntary surrender of a certificate or temporary permit. A person who has surrendered a certificate or temporary permit may not engage in activities that require a certificate or permit, and the advisory board may not return the certificate or permit to the person, until the person demonstrates to the satisfaction of the advisory board that the person is able to resume practice as a respiratory care practitioner.

(b) The advisory board shall by rule establish guidelines for determining when a person is competent to resume practice as a respiratory care practitioner.

SECTION 2.184. Section 604.202, Occupations Code, is amended to read as follows:

Sec. 604.202. EMERGENCY SUSPENSION. (a) The presiding officer of the advisory board shall appoint a three-member disciplinary panel consisting of advisory board members to determine whether a certificate or permit should be temporarily suspended.

(a-1) The disciplinary panel shall temporarily [department may] suspend a certificate or temporary permit issued under this chapter on a determination that continued practice by a certificate or temporary permit holder would constitute a continuing threat to the public welfare [the health and safety of a person is threatened and may make the suspension effective immediately].

(b) A [person whose] certificate or temporary permit may be [is] suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for [is entitled to] a hearing before the advisory board simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code [department not later than the 10th day after the effective date of the emergency suspension].

(c) Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the panel.

SECTION 2.185. Section 604.203, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.203. ADMINISTRATIVE [DISCIPLINARY] PROCEDURE FOR CONTESTED CASE HEARING. For a contested case hearing in which a formal complaint has been filed under this chapter, the [The] procedure by which the advisory board [department] takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by:

(1) advisory board [department] rules for a contested case hearing; and

(2) Chapter 2001, Government Code.

SECTION 2.186. Subchapter E, Chapter 604, Occupations Code, is amended by adding Sections 604.205 through 604.214 to read as follows:

Sec. 604.205. DELEGATION OF CERTAIN COMPLAINT DISPOSITIONS.

(a) The advisory board may delegate to a committee of medical board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations. The disposition determined by the committee must be approved by the advisory board at a public meeting.

(b) A complaint delegated under this section shall be referred for an informal proceeding under Section 604.209 if:

(1) the committee of employees determines that the complaint should not be dismissed or settled;

(2) the committee is unable to reach an agreed settlement; or

(3) the affected person requests that the complaint be referred for an informal proceeding.

Sec. 604.206. SUBPOENA. (a) The executive director of the medical board, the director's designee, or the secretary-treasurer of the medical board may issue a subpoena or subpoena duces tecum for the advisory board:

(1) to conduct an investigation or a contested proceeding related to:

(A) alleged misconduct by a certificate or temporary permit holder;

(B) an alleged violation of this chapter or other law related to respiratory care; or

(C) the provision of health care under this chapter; or

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a certificate or temporary permit under this chapter.

(b) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the advisory board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of an application for a certificate or temporary permit.

Sec. 604.207. PROTECTION OF PATIENT IDENTITY. In a disciplinary investigation or proceeding conducted under this chapter, the advisory board shall protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:

(1) testifies in the public proceeding; or

(2) submits a written release in regard to the patient's records or identity.

Sec. 604.208. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED CERTIFICATE OR TEMPORARY PERMIT HOLDER. Regardless of the offense, the advisory board shall suspend the certificate or temporary permit of a person serving a prison term in a state or federal penitentiary during the term of the incarceration.

Sec. 604.209. INFORMAL PROCEEDINGS. (a) The advisory board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must require that:

(1) an informal meeting in compliance with Section 2001.054, Government Code, be scheduled and the advisory board give notice to the person who is the subject of a complaint of the time and place of the meeting not later than the 45th day before the date the meeting is held;

(2) the complainant and the person who is the subject of the complaint be provided an opportunity to be heard;

(3) at least one of the advisory board members participating in the informal meeting as a panelist be a member who represents the public;

(4) a member of the medical board's staff be at the meeting to present to the advisory board's representative the facts the staff reasonably believes it could prove by competent evidence or qualified witnesses at a hearing; and

(5) the advisory board's legal counsel or a representative of the attorney general be present to advise the advisory board or the medical board's staff.

(c) The person who is the subject of the complaint is entitled to:

(1) reply to the staff's presentation; and

(2) present the facts the person reasonably believes the person could prove by competent evidence or qualified witnesses at a hearing.

(d) After ample time is given for the presentations, the advisory board representative shall recommend that the investigation be closed or shall attempt to mediate the disputed matters and make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.

(e) If the person who is the subject of the complaint has previously been the subject of disciplinary action by the advisory board, the advisory board shall schedule the informal meeting as soon as practicable.

(f) Section 604.175 applies to an investigation file and investigative information in the possession of or used by the advisory board in an informal proceeding under this section.

Sec. 604.210. ADVISORY BOARD REPRESENTATION IN INFORMAL PROCEEDINGS. (a) In an informal meeting under Section 604.209, at least two panelists shall be appointed to determine whether an informal disposition is appropriate.

(b) Notwithstanding Subsection (a) and Section 604.209(b)(3), an informal proceeding may be conducted by one panelist if the person who is the subject of the complaint waives the requirement that at least two panelists conduct the informal proceeding. If the person waives that requirement, the panelist may be any member of the advisory board.

(c) Except as provided by Subsection (d), the panel requirements described by Subsections (a) and (b) apply to an informal proceeding conducted by the advisory board under Section 604.209, including a proceeding to:

(1) consider a disciplinary case to determine if a violation has occurred; or

(2) request modification or termination of an order.

(d) The panel requirements described by Subsections (a) and (b) do not apply to an informal proceeding conducted by the advisory board under Section 604.209 to show compliance with an order of the advisory board.

Sec. 604.211. ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN INFORMAL PROCEEDINGS. (a) An advisory board member who serves as a panelist at an informal meeting under Section 604.209 shall make recommendations for the disposition of a complaint or allegation. The member may request the assistance of a medical board employee at any time.

(b) Medical board employees shall present a summary of the allegations against the person who is the subject of the complaint and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) An attorney for the advisory board or medical board shall act as counsel to the panel and, notwithstanding Subsection (e), shall be present during the informal meeting and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. The attorney may ask questions of a participant in the informal meeting to clarify any statement made by the participant. The attorney shall provide to the panel a historical perspective on comparable cases that have appeared before the advisory board or medical board, keep the proceedings focused on the case being discussed, and ensure that the medical board's employees and the person who is the subject of the complaint have an opportunity to present information related to the case. During the panel's deliberations, the attorney may be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the advisory board or medical board.

(d) The panel and medical board employees shall provide an opportunity for the person who is the subject of the complaint and the person's authorized representative to reply to the medical board employees' presentation and to present oral and written statements and facts that the person and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) An employee of the medical board who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the person who is the subject of the complaint, the person's authorized representative, the complainant, the witnesses, and members of the public may not be present during the deliberations of the panel. Only the members of the panel and the attorney serving as counsel to the panel may be present during the deliberations.

(f) The panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the person has violated a statute or advisory board rule, the panel may recommend advisory board action and terms for an informal settlement of the case.

(g) The panel's recommendations under Subsection (f) must be made in a written order and presented to the affected person and the person's authorized representative. The person may accept the proposed settlement within the time established by the panel at the informal meeting. If the person rejects the proposed settlement or does not act within the required time, the advisory board may proceed with the filing of a formal complaint with the State Office of Administrative Hearings.

Sec. 604.212. LIMIT ON ACCESS TO INVESTIGATION FILES. The advisory board shall prohibit or limit access to an investigation file relating to a person subject to an informal proceeding in the manner provided by Sections 164.007(c) and 604.175.

Sec. 604.213. REFUND. (a) Subject to Subsection (b), the advisory board may order a certificate or temporary permit holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter F.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the certificate or temporary permit holder for a service regulated by this chapter. The advisory board may not require payment of other damages or estimate harm in a refund order.

Sec. 604.214. EXPERT IMMUNITY. An expert who assists the advisory board is immune from suit and judgment and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding, or other action taken in the course of assisting the advisory board in a disciplinary proceeding. The attorney general shall represent the expert in any suit resulting from a service provided by the person in good faith to the advisory board.

SECTION 2.187. Section 604.301, Occupations Code, is amended to read as follows:

Sec. 604.301. IMPOSITION OF PENALTY. The advisory board ~~[department]~~ may impose an administrative penalty on a person who violates this chapter or a rule adopted under this chapter.

SECTION 2.188. Section 604.303, Occupations Code, is amended to read as follows:

Sec. 604.303. NOTICE OF VIOLATION AND PENALTY. If, after investigation of a possible violation and the facts surrounding the possible violation, the advisory board ~~[department]~~ determines that a violation occurred, the advisory board ~~[department]~~ shall give written notice of the violation to the person alleged to have committed the violation. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the proposed administrative penalty based on the factors set forth in Section 604.302(b); and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

SECTION 2.189. Section 604.304, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.304. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice under Section 604.303, the person may:

- (1) accept the advisory board's ~~[department's]~~ determination and proposed administrative penalty; or
- (2) make a written request for a hearing on that determination.

(b) If the person accepts the ~~[department's]~~ determination, the advisory board ~~[department]~~ by order shall approve the determination and assess the proposed penalty.

SECTION 2.190. Section 604.305, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.305. HEARING. (a) If the person requests a hearing in a timely manner, the advisory board ~~[department]~~ shall:

- (1) set a hearing; and
- (2) give written notice of the hearing to the person.

(b) The hearings examiner shall:

- (1) make findings of fact and conclusions of law; and
- (2) promptly issue to the advisory board ~~[department]~~ a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

SECTION 2.191. Section 604.306, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.306. DECISION BY ADVISORY BOARD ~~[DEPARTMENT]~~.

(a) Based on the findings of fact, conclusions of law, and proposal for decision, the advisory board ~~[department]~~ by order may determine that:

- (1) a violation occurred and impose an administrative penalty; or
- (2) a violation did not occur.

(b) The advisory board ~~[department]~~ shall give notice of the order to the person. The notice must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty imposed; and
- (3) a statement of the person's right to judicial review of the order.

SECTION 2.192. Sections 604.307(b) and (c), Occupations Code, are amended to read as follows:

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

- (1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account;

or

(B) giving to the court a supersedeas bond approved by the court that:

- (i) is for the amount of the penalty; and
- (ii) is effective until judicial review of the order is final; or

- (2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the advisory board ~~[department]~~ by certified mail.

(c) If the advisory board ~~[department]~~ receives a copy of an affidavit under Subsection (b)(2), the advisory board ~~[department]~~ may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

SECTION 2.193. Section 604.308, Occupations Code, is amended to read as follows:

Sec. 604.308. COLLECTION OF PENALTY. If the person does not pay the penalty and enforcement of the penalty is not stayed, the advisory board ~~[department]~~ may refer the matter to the attorney general for collection of the penalty.

SECTION 2.194. Section 604.311, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 604.311. ADMINISTRATIVE PENALTY EXPENSES AND COSTS.

(a) In this section, "reasonable expenses and costs" includes expenses incurred by the advisory board ~~[department]~~ or the attorney general in the investigation, initiation, or prosecution of an action, including reasonable investigative costs, court costs, attorney's fees, witness fees, and deposition expenses.

(b) The advisory board ~~[department]~~ may assess reasonable expenses and costs against a person in an administrative hearing if, as a result of the hearing, an administrative penalty is assessed against the person. The person shall pay expenses and costs assessed under this subsection not later than the 30th day after the date the order of the advisory board ~~[department]~~ requiring the payment of expenses and costs is final. The advisory board ~~[department]~~ may refer the matter to the attorney general for collection of the expenses and costs.

(c) If the attorney general brings an action against a person to enforce an administrative penalty assessed under this subchapter and the person is found liable for an administrative penalty, the attorney general may recover, on behalf of the attorney general and the advisory board ~~[department]~~, reasonable expenses and costs.

SECTION 2.195. The heading to Subchapter G, Chapter 604, Occupations Code, is amended to read as follows:

SUBCHAPTER G. CRIMINAL PENALTIES AND ENFORCEMENT PROVISIONS

SECTION 2.196. Section 604.352(a), Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly:

(1) sells, fraudulently obtains, or furnishes a respiratory care diploma, certificate, temporary permit, or record;

(2) practices respiratory care under a respiratory care diploma, certificate, temporary permit, or record illegally or fraudulently obtained or issued;

(3) impersonates in any manner a respiratory care practitioner;

(4) practices respiratory care while the person's certificate or temporary permit is suspended, revoked, or expired;

(5) conducts a formal respiratory care education program to prepare respiratory care personnel other than a program approved by the advisory board ~~[department]~~;

(6) employs a person as a respiratory care practitioner who does not hold a certificate or temporary permit in the practice of respiratory care; or

(7) otherwise practices medicine in violation of Section 604.002.

SECTION 2.197. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

(1) Sections 601.002(2) and (5);

(2) Section 601.051;

- (3) Section 601.053;
- (4) Section 601.056(b);
- (5) Section 601.103;
- (6) Sections 602.002(1-a) and (2);
- (7) Sections 602.052(b) and (c);
- (8) Sections 602.053(a), (b), and (c);
- (9) Section 602.056(c);
- (10) Section 602.059;
- (11) Subchapter C, Chapter 602;
- (12) Sections 602.1525(b), (c), (d), (e), (f), and (g);
- (13) Section 602.155;
- (14) Section 602.204;
- (15) Sections 603.002(1) and (4);
- (16) Section 603.005;
- (17) Section 603.054(c);
- (18) Section 603.058;
- (19) Subchapter C, Chapter 603;
- (20) Section 603.154(b);
- (21) Section 603.158;
- (22) Section 603.159;
- (23) Sections 603.2041(b), (c), (d), (f), and (g);
- (24) Section 604.051;
- (25) Sections 604.052(b) and (c); and
- (26) Section 604.056.

SECTION 2.198. Sections 601.1031, 601.1111, 602.2081, 602.2101, 603.2571, 603.3031, 604.1031, and 604.1523, Occupations Code, as added by this article, apply only to an application for the issuance or renewal of a license, certificate, or permit filed under Chapter 601, 602, 603, or 604, Occupations Code, on or after January 1, 2016. An application filed before that date is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

SECTION 2.199. (a) A rule or fee of the Department of State Health Services that relates to a program transferred under this article and that is in effect on the effective date of this Act remains in effect until changed by the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate.

(b) A license, certificate, or permit issued by the Department of State Health Services for a program transferred under this article is continued in effect as a license, certificate, or permit of the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate, after the effective date of this Act.

(c) A complaint, investigation, contested case, or other proceeding before the Department of State Health Services relating to a program transferred under this article that is pending on the effective date of this Act is transferred without change in status to the Texas Medical Board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate.

SECTION 2.200. (a) As soon as practicable after the effective date of this Act, the Department of State Health Services and the Texas Medical Board shall adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under this article. The transition plan must provide for the transfer to be completed as soon as practicable after the effective date of this Act.

(b) The Department of State Health Services shall provide the Texas Medical Board with access to any systems or information necessary for the Texas Medical Board to accept a program transferred under this article.

(c) On the effective date of this Act, the Texas Board of Licensure for Professional Medical Physicists and the Texas State Perfusionist Advisory Committee are abolished and the governor and the president of the Texas Medical Board, as appropriate, shall, as soon as practicable after the effective date of this Act, appoint the members of the Texas Board of Medical Radiologic Technology, the Medical Physicist Licensure Advisory Committee, the Perfusionist Licensure Advisory Committee, and the Texas Board of Respiratory Care.

(d) On the effective date of this Act, all full-time equivalent employee positions at the Department of State Health Services that primarily concern the administration or enforcement of Chapter 601, 602, 603, or 604, Occupations Code, become positions at the Texas Medical Board. The Texas Medical Board shall post the positions for hiring and, when filling the positions, shall give consideration to, but is not required to hire, an applicant who, immediately before the effective date of this Act, was an employee at the Department of State Health Services primarily involved in administering or enforcing the applicable law.

ARTICLE 3. DEREGULATION OF CERTAIN ACTIVITIES AND OCCUPATIONS

SECTION 3.001. Section 2165.303(b), Government Code, is amended to read as follows:

(b) The commission shall report the findings and test results obtained under a contract for air monitoring under this section to the office ~~[and the department]~~ in a form and manner prescribed by the office ~~[and the department]~~ for that purpose.

SECTION 3.002. Section 2165.305(c), Government Code, is amended to read as follows:

(c) In developing a seminar required by this section, the office shall receive assistance from:

(1) the commission; and

(2) ~~[the department; and~~

~~[(3)]~~ an entity that specializes in research and technical assistance related to indoor air quality but does not receive appropriations from the state.

SECTION 3.003. The heading to Subtitle G, Title 2, Health and Safety Code, is amended to read as follows:

SUBTITLE G. LICENSES AND OTHER REGULATION

SECTION 3.004. The heading to Subchapter C, Chapter 144, Health and Safety Code, is amended to read as follows:

SUBCHAPTER C. OPERATING PROCEDURES ~~[FOR ALL LICENSE
HOLDERS]~~

SECTION 3.005. Section 144.021, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 144.021. GENERAL REQUIREMENTS FOR RENDERING OPERATIONS ~~[OPERATING LICENSES]~~. ~~[(a)]~~ Each rendering establishment, related station, transfer station, dead animal hauler, or renderable raw material hauler ~~[applicant for or holder of an operating license]~~ shall adopt operating procedures that:

(1) provide for the sanitary performance of rendering operations and processes;

(2) prevent the spread of infectious or noxious materials; and

(3) ensure that finished products are free from disease-producing organisms.

~~[(b) As a condition of licensure, the department, in accordance with department rules, may prescribe other reasonable and appropriate construction, operational, maintenance, and inspection requirements to ensure compliance with this chapter and other applicable rules.]~~

SECTION 3.006. Section 144.022, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 144.022. RECORDS. (a) Each ~~[licensed]~~ rendering establishment, related station, or dead animal hauler shall have a dead animal log that meets the requirements prescribed by department rule. The name of the ~~[licensed]~~ rendering establishment, related station, or dead animal hauler must be on the front of the log.

(b) A rendering establishment, related station, or dead animal hauler that ~~[When a license holder]~~ receives a dead animal~~[-, the license holder]~~ shall enter the following information in the log:

(1) the date and time of the pickup of the dead animal;

(2) the name of the driver of the collection vehicle;

(3) a description of the dead animal;

(4) the location of the dead animal, including the county; and

(5) the owner of the dead animal, if known.

(c) The rendering establishment, related station, or dead animal hauler ~~[license holder]~~ shall also keep a record in the log, or in an appendix to the log, of the general route followed in making the collection.

(d) The log is subject to inspection at all reasonable times by the department or a person with written authorization from the department. ~~[Repeated or wilful failure or refusal to produce the log for inspection or to permit inspection by persons properly authorized to inspect the log constitutes grounds for license revocation.]~~

(e) This section does not apply to a ~~[licensed]~~ renderable raw material hauler.

SECTION 3.007. The heading to Section 144.023, Health and Safety Code, is amended to read as follows:

Sec. 144.023. VEHICLES~~[-, PERMIT REQUIRED]~~.

SECTION 3.008. Section 144.023(c), Health and Safety Code, is amended to read as follows:

(c) A truck bed used to transport dead animals or renderable raw materials shall be thoroughly washed and sanitized before use for the transport of finished rendered products. A truck bed used to transport dead animals or renderable raw materials to a rendering establishment, or to transfer finished rendered products from an establishment, shall, before being used to transport any product intended for human consumption, be thoroughly sanitized with a bactericidal agent that is ~~[determined by the department to be]~~ safe for use in a rendering establishment. A truck bed may not be used to transport dead animals or renderable raw materials at the same time the truck bed or any part of the truck bed is used to transport any product intended for human consumption, notwithstanding the manner in which part of the truck bed is sealed or separated from the remainder of the bed.

SECTION 3.009. Section 144.027(c), Health and Safety Code, is amended to read as follows:

(c) A drinking water supply ~~[approved by the department]~~ shall be provided at convenient locations in the establishment for the use of employees.

SECTION 3.010. Section 144.078(a), Health and Safety Code, is amended to read as follows:

(a) The ~~[On request of the department, the]~~ attorney general may bring an action in any district court of this state that has jurisdiction and venue for an injunction to compel compliance with this chapter or to restrain any actual or threatened violation of this chapter.

SECTION 3.011. Section 144.079(c), Health and Safety Code, is amended to read as follows:

(c) A renderer, hauler, or any other person may not~~[-~~
~~[(1) take possession of recyclable cooking oil from an unlicensed hauler or an employee or contractor of an unlicensed hauler; or~~
~~[(2)]~~ knowingly take possession of stolen recyclable cooking oil.

SECTION 3.012. Sections 145.006(a) and (b), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) A tanning facility shall post a warning sign in a conspicuous location where it is readily visible by persons entering the establishment. ~~[The executive commissioner by rule shall specify the size, design, and graphic design of the sign.]~~ The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

Repeated exposure to ultraviolet radiation may cause chronic sun damage characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer.

DANGER: ULTRAVIOLET RADIATION

Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.

Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

A tanning facility operator who violates a law relating to the operation of a tanning facility is subject to a civil or criminal penalty. If you suspect a violation, please contact your local law enforcement authority or local health authority. [A customer may call the Department of State Health Services at (insert toll free telephone number) to report an alleged injury regarding this tanning facility.]

IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE
OF AN ULTRAVIOLET LAMP OR SUNLAMP.

(b) A tanning facility operator shall also post a warning sign at each tanning device in a conspicuous location that is readily visible to a person about to use the device. ~~[The executive commissioner by rule shall specify the size, design, and graphic design of the sign.]~~ The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

DANGER: ULTRAVIOLET RADIATION

1. Follow the manufacturer's instructions for use of this device.
2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure can cause serious eye and skin injuries and allergic reactions. Repeated exposure may cause skin cancer.
3. Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent damage to the eyes.
4. Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.
5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women using oral contraceptives who use this product may develop discolored skin.

A tanning facility operator who violates a law relating to the operation of a tanning facility is subject to a civil or criminal penalty. If you suspect a violation, please contact your local law enforcement authority or local health authority. [A customer may call the Department of State Health Services at (insert toll free telephone number) to report an alleged injury regarding this tanning device.]

IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE
OF THIS DEVICE.

SECTION 3.013. Sections 145.008(i) and (j), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(i) A record of each customer using a tanning device shall be maintained at the tanning facility at least until the third anniversary of the date of the customer's last use of a tanning device. ~~[The executive commissioner by rule shall prescribe the form and content of the records.]~~ The record shall include:

- (1) the date and time of the customer's use of a tanning device;
- (2) the length of time the tanning device was used;
- (3) any injury or illness resulting from the use of a tanning device;
- (4) any written informed consent statement required to be signed under

Subsection (e);

(5) the customer's skin type, as determined by the customer by using the Fitzpatrick scale for classifying a skin type;

(6) whether the customer has a family history of skin cancer; and

(7) whether the customer has a past medical history of skin cancer.

(j) An operator shall keep an incident log at each tanning facility. The log shall be maintained at the tanning facility at least until the third anniversary of the date of an incident. ~~[The executive commissioner by rule shall prescribe the form and content of the log.]~~ The log shall include each:

(1) alleged injury;

(2) use of a tanning device by a customer not wearing protective eyewear;

(3) mechanical problem with a tanning device; and

(4) customer complaint.

SECTION 3.014. Section 145.0096, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) This section applies only to a business that:

(1) is operated under a license or permit as a sexually oriented business issued in accordance with Section 243.007, Local Government Code; or

(2) offers, as its primary business, a service or the sale, rental, or exhibition of a device or other item that is intended to provide sexual stimulation or sexual gratification to a customer.

(a-1) A business to which this section applies ~~[described by Section 145.0095(a)(1) or (2)]~~ may not use the word "tan" or "tanning" in a sign or any other form of advertising.

(b) A person commits an offense if the person violates Subsection (a-1) ~~[(a)]~~. Except as provided by Subsection (c), an offense under this subsection is a Class C misdemeanor.

SECTION 3.015. The heading to Section 145.011, Health and Safety Code, is amended to read as follows:

Sec. 145.011. ACCESS TO RECORDS ~~[RULES; INSPECTION]~~.

SECTION 3.016. Section 145.011(c), Health and Safety Code, is amended to read as follows:

(c) A person who is required to maintain records under this chapter or a person in charge of the custody of those records shall, at the request of a ~~[an authorized agent or]~~ health authority, permit the ~~[authorized agent or]~~ health authority access to copy or verify the records at reasonable times.

SECTION 3.017. Sections 145.0121(a) and (f), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(a) If it appears that a person has violated or is violating this chapter ~~[or an order issued or a rule adopted under this chapter]~~, ~~[the department may request]~~ the attorney general, or the district, ~~[or]~~ county, ~~[attorney]~~ or ~~[the]~~ municipal attorney ~~[of a municipality]~~ in the jurisdiction where the violation is alleged to have occurred or may occur, may ~~[to]~~ institute a civil suit for:

(1) an order enjoining the violation;

(2) a permanent or temporary injunction, a temporary restraining order, or other appropriate remedy [~~if the department shows that the person has engaged in or is engaging in a violation~~];

(3) the assessment and recovery of a civil penalty; or

(4) both injunctive relief and a civil penalty.

(f) The [~~department or the~~] attorney general may [~~each~~] recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses. [~~The expenses recovered by the department under this section shall be used for the administration and enforcement of this chapter.~~] The expenses recovered by the attorney general shall be used by the attorney general.

SECTION 3.018. Section 145.013(a), Health and Safety Code, is amended to read as follows:

(a) A person, other than a customer, commits an offense if the person violates this chapter [~~or a rule adopted under this chapter~~].

SECTION 3.019. Section 145.016(b), Health and Safety Code, is amended to read as follows:

(b) An operator or other person may disclose a customer record:

(1) if the customer, or a person authorized to act on behalf of the customer, requests the record;

(2) if a [~~the commissioner or an authorized agent or~~] health authority requests the record under Section 145.011;

(3) if the customer consents in writing to the disclosure to another person;

(4) in a criminal proceeding in which the customer is a victim, witness, or defendant;

(5) if the record is requested in a criminal or civil proceeding by court order or subpoena; or

(6) as otherwise required by law.

SECTION 3.020. Section 1001.071(b), Health and Safety Code, as redesignated by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The department is responsible for administering human services programs regarding the public health, including:

(1) implementing the state's public health care delivery programs under the authority of the department;

(2) administering state health facilities, hospitals, and health care systems;

(3) developing and providing health care services, as directed by law;

(4) providing for the prevention and control of communicable diseases;

(5) providing public education on health-related matters, as directed by law;

(6) compiling and reporting health-related information, as directed by law;

(7) acting as the lead agency for implementation of state policies regarding the human immunodeficiency virus and acquired immunodeficiency syndrome and administering programs related to the human immunodeficiency virus and acquired immunodeficiency syndrome;

(8) investigating the causes of injuries and methods of prevention;

(9) administering a grant program to provide appropriated money to counties, municipalities, public health districts, and other political subdivisions for their use to provide or pay for essential public health services;

(10) administering the registration of vital statistics;

(11) licensing, inspecting, and enforcing regulations regarding health facilities, other than long-term care facilities regulated by the Department of Aging and Disability Services;

(12) implementing established standards and procedures for the management and control of sanitation and for health protection measures;

(13) enforcing regulations regarding radioactive materials;

(14) enforcing regulations regarding food, ~~[bottled and vended drinking water,]~~ drugs, cosmetics, and health devices;

(15) enforcing regulations regarding food service establishments, retail food stores, mobile food units, and roadside food vendors;

(16) enforcing regulations controlling hazardous substances in households and workplaces; and

(17) implementing a mental health program for veterans.

SECTION 3.021. Section 32.074(a), Human Resources Code, is amended to read as follows:

(a) In this section, "personal emergency response system" has the meaning assigned by Section 1702.331, Occupations ~~[781.001, Health and Safety]~~ Code.

SECTION 3.022. Section 843.002(24), Insurance Code, is amended to read as follows:

(24) "Provider" means:

(A) a person, other than a physician, who is licensed or otherwise authorized to provide a health care service in this state, including:

(i) a chiropractor, registered nurse, pharmacist, optometrist, ~~[registered optician,]~~ or acupuncturist; or

(ii) a pharmacy, hospital, or other institution or organization;

(B) a person who is wholly owned or controlled by a provider or by a group of providers who are licensed or otherwise authorized to provide the same health care service; or

(C) a person who is wholly owned or controlled by one or more hospitals and physicians, including a physician-hospital organization.

SECTION 3.023. Sections 351.005(a) and (d), Occupations Code, are amended to read as follows:

(a) This chapter does not:

(1) apply to an officer or agent of the United States or this state in performing official duties;

(2) prevent or interfere with the right of a physician licensed by the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~ to:

(A) treat or prescribe for a patient; or

(B) direct or instruct a person under the physician's control, supervision, or direction to aid or attend to the needs of a patient according to the physician's specific direction, instruction, or prescription;

(3) prevent a person from selling ready-to-wear eyeglasses as merchandise at retail;

(4) prevent an unlicensed person from making simple repairs to eyeglasses;

(5) ~~[prevent or interfere with the right of a dispensing optician registered under Chapter 352 to engage in spectacle or contact lens dispensing under that chapter;~~

~~(6)~~ prevent an ophthalmic dispenser who does not practice optometry or therapeutic optometry from measuring interpupillary distances or making facial measurements to dispense or adapt an ophthalmic prescription, lens, product, or accessory in accordance with the specific directions of a written prescription signed by an optometrist, therapeutic optometrist, or licensed physician;

~~(6)~~ ~~(7)~~ prevent the administrator or executor of the estate of a deceased optometrist or therapeutic optometrist from employing an optometrist or therapeutic optometrist to continue the practice of the deceased during estate administration; or

~~(7)~~ ~~(8)~~ prevent an optometrist or therapeutic optometrist from working for the administrator or executor of the estate of a deceased optometrist or therapeutic optometrist to continue the practice of the deceased during estate administration.

(d) Continuation of the practice of a deceased optometrist or therapeutic optometrist by an estate under Subsections (a)(6) and (7) ~~[(a)(7) and (8)]~~ must:

(1) be authorized by the county judge; and

(2) terminate before the first anniversary of the date of death of the optometrist or therapeutic optometrist.

SECTION 3.024. Section 353.004, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 353.004. PUBLIC INFORMATION ON PRESCRIPTION RELEASE.

~~[(a)]~~ The ~~[department and the]~~ Texas Optometry Board shall prepare and provide to the public and appropriate state agencies information regarding the release and verification of contact lens prescriptions.

~~[(b) The executive commissioner may adopt rules necessary to implement this section.]~~

SECTION 3.025. Section 353.1015(b), Occupations Code, is amended to read as follows:

(b) A prescription is considered verified under this section if:

(1) the prescribing physician, optometrist, or therapeutic optometrist by a direct communication confirms that the prescription is accurate;

(2) the prescribing physician, optometrist, or therapeutic optometrist informs the person dispensing the contact lenses that the prescription is inaccurate and provides the correct prescription information; or

(3) the prescribing physician, optometrist, or therapeutic optometrist fails to communicate with the person dispensing the contact lenses not later than the eighth business hour after the prescribing physician, optometrist, or therapeutic optometrist receives from the person dispensing the contact lenses the request for verification ~~[or within another similar period specified by rule]~~.

SECTION 3.026. Section 353.103(a), Occupations Code, is amended to read as follows:

(a) If a patient presents a contact lens prescription to be filled or asks a person who dispenses contact lenses ~~[permit holder]~~ to verify a contact lens prescription under Section 353.1015, but requests that fewer than the total number of lenses authorized by the prescription be dispensed, the person dispensing the lenses shall note on the prescription or verification:

- (1) the number of lenses dispensed;
- (2) the number of lenses that remain eligible to be dispensed under the prescription; and
- (3) the name, address, and telephone number~~[, and license or permit number]~~ of the person dispensing the lenses.

SECTION 3.027. Section 353.104(a), Occupations Code, is amended to read as follows:

(a) If a patient needs an emergency refill of the patient's contact lens prescription, a physician, optometrist, or therapeutic optometrist may telephone or fax the prescription to a person who dispenses ~~[authorized to dispense]~~ contact lenses ~~[under Section 353.051]~~ or may verify a prescription under Section 353.1015.

SECTION 3.028. Section 353.151, Occupations Code, is amended to read as follows:

Sec. 353.151. DIRECTIONS FOR INDEPENDENT DISPENSER ~~[OPTICIAN]~~; DELEGATION. (a) If a physician's directions, instructions, or orders are to be performed or a physician's prescription is to be filled by a person ~~[an optician]~~ who is independent of the physician's office, the directions, instructions, orders, or prescription must be:

- (1) in writing or verified under Section 353.1015;
- (2) of a scope and content and communicated to the person ~~[optician]~~ in a form and manner that, in the professional judgment of the physician, best serves the health, safety, and welfare of the physician's patient; and
- (3) in a form and detail consistent with the person's ~~[optician's]~~ skill and knowledge.

(b) A person who dispenses contact lenses ~~[holds a contact lens dispensing permit issued under Subchapter B]~~ may measure the eye or cornea and may evaluate the physical fit of lenses for a particular patient of a physician if the physician has delegated in writing those responsibilities regarding that patient to the person in accordance with Subsection (a) and Section 351.005.

(c) If a physician notes on a spectacle prescription "fit for contacts" or similar language and has, as required by Subsections (a) and (b), specifically delegated to a specific person ~~[optician]~~ the authority to make the additional measurements and evaluations necessary for a fully written contact lens prescription, the person ~~[optician]~~ may dispense contact lenses to the patient even though the prescription is less than a fully written contact lens prescription.

SECTION 3.029. The following provisions of the Government Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 2165.301(2);
- (2) Section 2165.302; and
- (3) Section 2165.304.

SECTION 3.030. The following provisions of the Health and Safety Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 144.001;
- (2) Subchapter B, Chapter 144;
- (3) Sections 144.023(d) and (e);
- (4) Section 144.031;
- (5) Subchapter D, Chapter 144;
- (6) Subchapter E, Chapter 144;
- (7) Subchapter F, Chapter 144;
- (8) Section 144.071;
- (9) Section 144.072;
- (10) Section 144.073;
- (11) Section 144.074;
- (12) Section 144.075;
- (13) Section 144.076;
- (14) Section 144.077;
- (15) Section 144.078(c);
- (16) Section 144.080;
- (17) Section 144.081;
- (18) Section 144.082;
- (19) Section 144.083;
- (20) Section 144.084;
- (21) Section 144.085;
- (22) Section 145.001;
- (23) Section 145.002(1);
- (24) Section 145.004(b);
- (25) Section 145.006(c);
- (26) Section 145.008(k);
- (27) Section 145.009;
- (28) Section 145.0095;
- (29) Section 145.010;
- (30) Sections 145.011(a) and (b);
- (31) Section 145.012;
- (32) Section 145.0122;
- (33) Section 145.015;
- (34) Chapter 345;
- (35) Chapter 385;
- (36) Chapter 441; and
- (37) Chapter 781.

SECTION 3.031. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 351.005(c);
- (2) Chapter 352;
- (3) Sections 353.002(2) and (4);

- (4) Section 353.005;
- (5) Subchapter B, Chapter 353;
- (6) Section 353.202;
- (7) Section 353.2025;
- (8) Section 353.203;
- (9) Section 353.204(b); and
- (10) Section 353.205.

SECTION 3.032. On the effective date of this Act, a license, permit, certification of registration, or other authorization issued under a law that is repealed by this article expires.

SECTION 3.033. The changes in law made by this article do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on the effective date of this Act.

SECTION 3.034. (a) An offense under or other violation of a law that is repealed by this article is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose.

(b) For purposes of this section, an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

SECTION 3.035. The repeal of a law by this article does not entitle a person to a refund of an application, licensing, or other fee paid by the person before the effective date of this Act.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.001. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2015.

(b) Part 2 of Article 1 of this Act takes effect September 1, 2017.

The Conference Committee Report on **SB 202** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1593

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas
May 27, 2015

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1593** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

LUCIO
ELTIFE
MENÉNDEZ
NICHOLS
L. TAYLOR
On the part of the Senate

LUCIO III
ASHBY
BERNAL
HUBERTY
WALLE
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to regulation of the sale of fireworks by certain municipalities.

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

SECTION 1. Section 217.042, Local Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), the [The] municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the limits.

(c) The municipality may not define and prohibit as a nuisance the sale of fireworks or similar materials outside the limits of the municipality.

SECTION 2. This Act takes effect September 1, 2015.

The Conference Committee Report on **SB 1593** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 652**

Senator Schwertner submitted the following Conference Committee Report:

Austin, Texas
May 25, 2015

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 652** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SCHWERTNER
ELTIFE
FRASER
NELSON
URESTI
On the part of the Senate

FARNEY
SIMMONS
KUEMPEL
RINALDI
OLIVEIRA
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to excluding a franchisor as an employer of a franchisee or a franchisee's employees.

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

SECTION 1. Subchapter A, Chapter 21, Labor Code, is amended by adding Section 21.0022 to read as follows:

Sec. 21.0022. FRANCHISORS EXCLUDED. (a) In this section, "franchisee" and "franchisor" have the meanings assigned by 16 C.F.R. Section 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be an employer of:

(1) a franchisee; or

(2) a franchisee's employees.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this section does not apply to a franchisor who has been found by a court of competent jurisdiction in this state to have exercised a type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

SECTION 2. Subchapter A, Chapter 61, Labor Code, is amended by adding Section 61.0031 to read as follows:

Sec. 61.0031. FRANCHISORS EXCLUDED. (a) In this section, "franchisee" and "franchisor" have the meanings assigned by 16 C.F.R. Section 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be an employer of:

(1) a franchisee; or

(2) a franchisee's employees.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this section does not apply to a franchisor who has been found by a court of competent jurisdiction in this state to have exercised a type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

SECTION 3. Subchapter A, Chapter 62, Labor Code, is amended by adding Section 62.006 to read as follows:

Sec. 62.006. FRANCHISORS EXCLUDED. (a) In this section, "franchisee" and "franchisor" have the meanings assigned by 16 C.F.R. Section 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be an employer of:

(1) a franchisee; or

(2) a franchisee's employees.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this section does not apply to a franchisor who has been found by a court of competent jurisdiction in this state to have exercised a

type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

SECTION 4. Chapter 91, Labor Code, is amended by adding Section 91.0013 to read as follows:

Sec. 91.0013. FRANCHISORS EXCLUDED. (a) In this section, "franchisee" and "franchisor" have the meanings assigned by 16 C.F.R. Section 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be in a coemployment relationship with:

(1) a franchisee; or

(2) a franchisee's employees.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this section does not apply to a franchisor who has been found by a court of competent jurisdiction in this state to have exercised a type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

SECTION 5. Section 201.021, Labor Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) In this subsection, "franchisee" and "franchisor" have the meanings assigned by 16 C.F.R. Section 436.1. The definition of employer provided by this section does not apply to a franchisor with respect to:

(1) a franchisee; or

(2) a franchisee's employees.

(e) With respect to a specific claim for relief under this subtitle made by a franchisee or a franchisee's employee, Subsection (d) does not apply to a franchisor who has been found by a court of competent jurisdiction in this state to have exercised a type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

SECTION 6. Subchapter B, Chapter 401, Labor Code, is amended by adding Section 401.014 to read as follows:

Sec. 401.014. FRANCHISORS EXCLUDED. (a) In this section, "franchisee" and "franchisor" have the meanings assigned by 16 C.F.R. Section 436.1.

(b) For purposes of this subtitle, a franchisor is not considered to be an employer of:

(1) a franchisee; or

(2) a franchisee's employees.

(c) With respect to a specific claim for relief under this subtitle made by a franchisee or a franchisee's employee, this section does not apply to a franchisor who has been found by a court of competent jurisdiction in this state to have exercised a type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

SECTION 7. Subchapter A, Chapter 411, Labor Code, is amended by adding Section 411.005 to read as follows:

Sec. 411.005. FRANCHISORS EXCLUDED. (a) In this section, "franchisee" and "franchisor" have the meanings assigned by 16 C.F.R. Section 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be an employer of:

(1) a franchisee; or

(2) a franchisee's employees.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this section does not apply to a franchisor who has been found by a court of competent jurisdiction in this state to have exercised a type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

SECTION 8. The change in law made by this Act applies only to the liability of a franchisor based on conduct occurring on or after the effective date of this Act. Conduct by a franchisor occurring before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2015.

The Conference Committee Report on **SB 652** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 311

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas

May 27, 2015

Honorable Dan Patrick

President of the Senate

Honorable Joe Straus

Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 311** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

LUCIO

ELTIFE

URESTI

L. TAYLOR

RODRÍGUEZ

On the part of the Senate

CANALES

BERNAL

LOZANO

M. GONZÁLEZ

SCHUBERT

On the part of the House

The Conference Committee Report on **HB 311** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 55**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas
May 28, 2015

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 55** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON
CAMPBELL
HUFFMAN
HINOJOSA
LUCIO

On the part of the Senate

S. KING
BLANCO
COLEMAN
R. MILLER
SHEETS

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the creation of a grant program to support community mental health programs for veterans and their families.

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

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0992 to read as follows:

Sec. 531.0992. GRANT PROGRAM FOR MENTAL HEALTH SERVICES FOR VETERANS AND THEIR FAMILIES. (a) To the extent funds are appropriated to the commission for that purpose, the commission shall establish a grant program for the purpose of supporting community mental health programs providing services and treatment to veterans and their families.

(b) The commission shall enter into an agreement with a qualified nonprofit or private entity to serve as the administrator of the grant program. The duties of the administrator must include assisting, supporting, and advising the commission in fulfilling the commission's responsibilities with respect to the grant program. The administrator may advise the commission on:

- (1) designing, developing, implementing, and managing the program;
- (2) determining criteria for local community collaboration and the types of services and deliveries eligible for grants;
- (3) eligibility requirements for grant recipients;
- (4) designing and managing the competitive bidding processes for applications or proposals and the evaluation and selection of grant recipients;

- (5) contractual requirements for grant recipients;
- (6) grant requisites and mechanisms;
- (7) roles and responsibilities of grant recipients;
- (8) reporting requirements for grant recipients;
- (9) support and technical capabilities;
- (10) requisite timelines and deadlines for the program;
- (11) evaluation of the program and grant recipients; and
- (12) requirements for reporting on the program to policy makers.

(c) The private entity that supports and administers the grant program shall obtain or secure contributions to the grant program in an amount of money or other consideration at least equal in value to the amount of money awarded to grant recipients by the commission under the grant program. The money or other consideration obtained or secured by the private entity may, as determined by the executive commissioner, include cash or in-kind contributions from private contributors or local governments but may not include state or federal funds.

(d) Money appropriated to, or obtained by, the commission for the grant program must be disbursed directly to grant recipients by the commission, as authorized by the executive commissioner. Money or other consideration obtained or secured by the private entity must be disbursed or provided directly to grant recipients by the private entity, private contributors, or local governments, as authorized by the executive commissioner.

(e) All grants awarded under the grant program must be used for the sole purpose of supporting community programs that provide mental health care services and treatment to veterans and their families and that coordinate mental health care services for veterans and their families with other transition support services.

(f) The commission shall select grant recipients based on the submission of applications or proposals by nonprofit and governmental entities. The executive commissioner shall develop criteria for the evaluation of those applications or proposals and the selection of grant recipients. The selection criteria must:

- (1) evaluate and score:
 - (A) fiscal controls for the project;
 - (B) project effectiveness;
 - (C) project cost; and
 - (D) an applicant's previous experience with grants and contracts;
- (2) address the possibility of and method for making multiple awards; and
- (3) include other factors that the executive commissioner considers relevant.

(g) The executive commissioner shall use a noncompetitive procurement procedure to select a qualified nonprofit or private entity to administer a pilot program of the grant program established under this section. In selecting the qualified nonprofit or private entity, the executive commissioner must consider the purposes of the program and the duties of the program administrator described in this section.

(h) The executive commissioner shall adopt any rules necessary to implement the grant program under this section.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

The Conference Committee Report on **SB 55** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas
May 28, 2015

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON
BETTENCOURT
HINOJOSA
HUFFMAN
NICHOLS
On the part of the Senate

D. BONNEN
DARBY
MARTINEZ FISCHER
PARKER
SPRINGER
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to certain restrictions on the imposition of ad valorem taxes and to the duty of the state to reimburse certain political subdivisions for certain revenue loss; making conforming changes.

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

SECTION 1. Section 11.13, Tax Code, is amended by amending Subsection (b) and adding Subsection (n-1) to read as follows:

(b) An adult is entitled to exemption from taxation by a school district of \$25,000 [~~\$15,000~~] of the appraised value of the adult's residence homestead, except that only \$5,000 [~~\$10,000~~] of the exemption applies [~~does not apply~~] to an entity operating under former Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those chapters existed on May 1, 1995, as permitted by Section 11.301, Education Code.

(n-1) The governing body of a school district, municipality, or county that adopted an exemption under Subsection (n) for the 2014 tax year may not reduce the amount of or repeal the exemption. This subsection expires December 31, 2019.

SECTION 2. Section 11.26(a), Tax Code, is amended to read as follows:

(a) The tax officials shall appraise the property to which this section applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the amount of the tax as limited by this section, except as otherwise provided by this section. A school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older or on the residence homestead of an individual who is disabled, as defined by Section 11.13, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for the applicable exemption provided by Section 11.13(c) for an individual who is 65 years of age or older or is disabled. If the individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the same exemption for the next year, and if the school district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a school district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed in the year immediately following the first year for which the individual qualified that residence homestead for the same exemption, except as provided by Subsection (b). If the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) for individuals 65 years of age or older or disabled was a tax year before the 2015 [~~1997~~] tax year, the amount of the limitation provided by this section is the amount of tax the school district imposed for the 2014 [~~1996~~] tax year less an amount equal to the amount determined by multiplying \$10,000 times the tax rate of the school district for the 2015 [~~1997~~] tax year, plus any 2015 [~~1997~~] tax attributable to improvements made in 2014 [~~1996~~], other than improvements made to comply with governmental regulations or repairs.

SECTION 3. Section 25.23, Tax Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) This subsection applies only to the appraisal records for the 2015 tax year. If the appraisal records submitted to the appraisal review board include the taxable value of residence homesteads or show the amount of the exemption under Section 11.13(b) applicable to residence homesteads, the chief appraiser shall prepare supplemental appraisal records that reflect an exemption amount under that subsection of \$25,000. This subsection expires December 31, 2016.

SECTION 4. Section 26.04, Tax Code, is amended by adding Subsections (a-1) and (c-1) to read as follows:

(a-1) On receipt of the appraisal roll for the 2015 tax year, the assessor for a school district shall determine the total taxable value of property taxable by the school district and the taxable value of new property based on a residence homestead exemption under Section 11.13(b) of \$25,000. This subsection expires December 31, 2016.

(c-1) An officer or employee designated by the governing body of a school district shall calculate the effective tax rate and the rollback tax rate of the school district for the 2015 tax year based on a residence homestead exemption under Section 11.13(b) of \$25,000. This subsection expires December 31, 2016.

SECTION 5. Section 26.08, Tax Code, is amended by adding Subsection (q) to read as follows:

(q) For purposes of this section, the effective maintenance and operations tax rate and the rollback tax rate of a school district for the 2015 tax year shall be calculated based on a residence homestead exemption under Section 11.13(b) of \$25,000. This subsection expires December 31, 2016.

SECTION 6. Section 26.09, Tax Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The assessor for a school district shall calculate the amount of tax imposed by the school district on a residence homestead for the 2015 tax year based on an exemption under Section 11.13(b) of \$15,000 and separately based on an exemption under that subsection of \$25,000. This subsection expires December 31, 2016.

SECTION 7. Section 26.15, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) The assessor for a school district shall correct the tax roll for the school district for the 2015 tax year to reflect the results of the election to approve the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015. This subsection expires December 31, 2016.

SECTION 8. Section 31.01, Tax Code, is amended by adding Subsections (d-2), (d-3), (d-4), and (d-5) to read as follows:

(d-2) This subsection and Subsections (d-3) and (d-4) apply only to taxes imposed by a school district on a residence homestead for the 2015 tax year. The assessor for the school district shall compute the amount of taxes imposed and the other information required by this section based on a residence homestead exemption under Section 11.13(b) of \$25,000. The tax bill or the separate statement must indicate that the bill is a provisional tax bill and include a statement in substantially the following form:

"If the amount of the exemption from ad valorem taxation by a school district of a residence homestead had not been increased by the Texas Legislature, your tax bill would have been \$_____ (insert amount equal to the sum of the amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$15,000 and the total amount of taxes imposed by the other taxing units whose taxes are included in the bill). Because of action by the Texas Legislature increasing the amount of the residence homestead exemption, your tax bill has been lowered by \$_____ (insert difference between amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$15,000 and amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$25,000), resulting in a lower tax bill of \$_____ (insert amount equal to the sum of the amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$25,000 and the total amount of taxes imposed by the other taxing units whose taxes are included in the bill), contingent on the approval by the voters at an election to be held November 3, 2015, of a constitutional amendment authorizing the residence homestead exemption increase. If the constitutional amendment is not approved by the voters at the election, a supplemental school district tax bill in the amount of \$_____ (insert difference between amount calculated under Section 26.09(c-1) based

on an exemption under Section 11.13(b) of \$15,000 and amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$25,000) will be mailed to you."

(d-3) A tax bill prepared by the assessor for a school district as provided by Subsection (d-2) and mailed to a person in whose name property subject to an exemption under Section 11.13(b) is listed on the tax roll and to the person's authorized agent as provided by Subsection (a) of this section is considered to be a provisional tax bill until the canvass of the votes on the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015. If the constitutional amendment is approved by the voters, the tax bill is considered to be a final tax bill for the taxes imposed on the property for the 2015 tax year, and no additional tax bill is required to be mailed to the person and to the person's authorized agent, unless another provision of this title requires the mailing of a corrected tax bill. If the constitutional amendment is not approved by the voters:

(1) a tax bill prepared by the assessor for a school district as provided by Subsection (d-2) and mailed to a person in whose name property subject to an exemption under Section 11.13(b) is listed on the tax roll and to the person's authorized agent as provided by Subsection (a) of this section is considered to be a final tax bill but only as to the portion of the taxes imposed on the property for the 2015 tax year that are included in the bill;

(2) the amount of taxes imposed by each school district on a residence homestead for the 2015 tax year is calculated based on an exemption under Section 11.13(b) of \$15,000; and

(3) except as provided by Subsections (f), (i-1), and (k), the assessor for each school district shall prepare and mail a supplemental tax bill, by December 1 or as soon thereafter as practicable, to each person in whose name property subject to an exemption under Section 11.13(b) is listed on the tax roll and to the person's authorized agent in an amount equal to the difference between the amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$15,000 and the amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$25,000.

(d-4) Except as otherwise provided by Subsection (d-3), the provisions of this section other than Subsection (d-2) apply to a supplemental tax bill mailed under Subsection (d-3).

(d-5) This subsection and Subsections (d-2), (d-3), and (d-4) expire December 31, 2016.

SECTION 9. Section 31.02, Tax Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Except as provided by Subsection (b) of this section and Sections 31.03 and 31.04, taxes for which a supplemental tax bill is mailed under Section 31.01(d-3) are due on receipt of the tax bill and are delinquent if not paid before March 1 of the year following the year in which imposed. This subsection expires December 31, 2016.

SECTION 10. Subchapter A, Chapter 41, Education Code, is amended by adding Section 41.0011 to read as follows:

Sec. 41.0011. COMPUTATION OF WEALTH PER STUDENT FOR 2015-2016 SCHOOL YEAR. Notwithstanding any other provision of this chapter, in computing a school district's wealth per student for the 2015-2016 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article in effect for the 2015 tax year as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had been in effect for the 2014 tax year. This section expires September 1, 2016.

SECTION 11. Section 41.004, Education Code, is amended by adding Subsections (a-1), (b-1), and (c-1) to read as follows:

(a-1) This subsection applies only if the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, is approved by the voters in an election held for that purpose. As soon as practicable after receiving revised property values that reflect adoption of the constitutional amendment, the commissioner shall review the wealth per student of districts in the state and revise as necessary the notifications provided under Subsection (a) for the 2015-2016 school year. This subsection expires September 1, 2016.

(b-1) This subsection applies only to a district that has not previously held an election under this chapter and is not eligible to reduce the district's wealth per student in the manner authorized by Section 41.0041. Notwithstanding Subsection (b), a district that enters into an agreement to exercise an option to reduce the district's wealth per student under Section 41.003(3), (4), or (5) for the 2015-2016 school year may request and, as provided by Section 41.0042(a), receive approval from the commissioner to delay the date of the election otherwise required to be ordered before September 1. This subsection expires September 1, 2016.

(c-1) Notwithstanding Subsection (c), a district that receives approval from the commissioner to delay an election as provided by Subsection (b-1) may adopt a tax rate for the 2015 tax year before the commissioner certifies that the district has achieved the equalized wealth level. This subsection expires September 1, 2016.

SECTION 12. Subchapter A, Chapter 41, Education Code, is amended by adding Section 41.0042 to read as follows:

Sec. 41.0042. TRANSITIONAL PROVISIONS: INCREASED HOMESTEAD EXEMPTION AND LIMITATION ON TAX INCREASES. (a) The commissioner shall approve a district's request under Section 41.004(b-1) to delay the date of an election required under this chapter if the commissioner determines that the district would not have a wealth per student that exceeds the equalized wealth level if the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, were approved by the voters.

(b) The commissioner shall set a date by which each district that receives approval under this section must order the election.

(c) Not later than the 2016-2017 school year, the commissioner shall order detachment and annexation of property under Subchapter G or consolidation under Subchapter H as necessary to achieve the equalized wealth level for a district that receives approval under this section and subsequently:

(1) fails to hold the election; or

(2) does not receive voter approval at the election.

(d) This section expires September 1, 2017.

SECTION 13. Subchapter A, Chapter 41, Education Code, is amended by adding Section 41.0121 to read as follows:

Sec. 41.0121. TRANSITIONAL ELECTION DATES. (a) This section applies only to an election under this chapter that occurs during the 2015-2016 school year.

(b) Section 41.012 does not apply to a district that receives approval of a request under Section 41.0042. The district shall hold the election on a Tuesday or Saturday on or before a date specified by the commissioner. Section 41.001, Election Code, does not apply to the election.

(c) This section expires September 1, 2016.

SECTION 14. Section 41.094, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), a district that receives approval of a request under Section 41.0042 shall pay for credits purchased in equal monthly payments as determined by the commissioner beginning March 15, 2016, and ending August 15, 2016. This subsection expires September 1, 2016.

SECTION 15. Subchapter D, Chapter 41, Education Code, is amended by adding Section 41.0981 to read as follows:

Sec. 41.0981. TRANSITIONAL EARLY AGREEMENT CREDIT. Notwithstanding Section 41.098, a district that receives approval of a request under Section 41.0042 may receive the early agreement credit described by Section 41.098 for the 2015-2016 school year if the district orders the election and obtains voter approval not later than the date specified by the commissioner. This section expires September 1, 2016.

SECTION 16. Section 41.208, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), for the 2015-2016 school year, the commissioner shall order any detachments and annexations of property under this subchapter as soon as practicable after the canvass of the votes on the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015. This subsection expires September 1, 2016.

SECTION 17. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2518 to read as follows:

Sec. 42.2518. ADDITIONAL STATE AID FOR HOMESTEAD EXEMPTION AND LIMITATION ON TAX INCREASES. (a) For the 2015-2016 and 2016-2017 school years, a school district is entitled to additional state aid to the extent that state and local revenue under this chapter and Chapter 41 is less than the state and local revenue that would have been available to the district under Chapter 41 and this chapter as those chapters existed on September 1, 2015, if the increase in the residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had not occurred.

(b) The lesser of the school district's currently adopted maintenance and operations tax rate or the adopted maintenance and operations tax rate for the 2014 tax year is used for the purpose of determining additional state aid under this section.

(c) Revenue from a school district maintenance and operations tax that is levied to pay costs of a lease-purchase agreement as described by Section 46.004 and that is included in determining state assistance under Subchapter A, Chapter 46, is included for the purpose of calculating state aid under this section.

(d) The commissioner, using information provided by the comptroller and other information as necessary, shall compute the amount of additional state aid to which a district is entitled under this section. A determination by the commissioner under this section is final and may not be appealed.

(e) This section expires August 31, 2017.

SECTION 18. Effective September 1, 2017, Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2518 to read as follows:

Sec. 42.2518. ADDITIONAL STATE AID FOR HOMESTEAD EXEMPTION AND LIMITATION ON TAX INCREASES. (a) Beginning with the 2017-2018 school year, a school district is entitled to additional state aid to the extent that state and local revenue under this chapter and Chapter 41 is less than the state and local revenue that would have been available to the district under Chapter 41 and this chapter as those chapters existed on September 1, 2015, excluding any state aid that would have been provided under former Section 42.2516, if the increase in the residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had not occurred.

(b) The lesser of the school district's currently adopted maintenance and operations tax rate or the adopted maintenance and operations tax rate for the 2014 tax year is used for the purpose of determining additional state aid under this section.

(c) Revenue from a school district maintenance and operations tax that is levied to pay costs of a lease-purchase agreement as described by Section 46.004 and that is included in determining state assistance under Subchapter A, Chapter 46, is included for the purpose of calculating state aid under this section.

(d) The commissioner, using information provided by the comptroller and other information as necessary, shall compute the amount of additional state aid to which a district is entitled under this section. A determination by the commissioner under this section is final and may not be appealed.

SECTION 19. Section 42.252, Education Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding any other provision of this chapter, in computing each school district's local share of program cost under this section for the 2015-2016 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article in effect for the 2015 tax year as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had been in effect for the 2014 tax year. This subsection expires September 1, 2016.

SECTION 20. Section 42.302, Education Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding any other provision of this chapter, in computing a school district's enrichment tax rate ("DTR") and local revenue ("LR") for the 2015-2016 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article in effect for the 2015 tax year as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had been in effect for the 2014 tax year. This subsection expires September 1, 2016.

SECTION 21. Section 46.003, Education Code, is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding any other provision of this chapter, in computing a district's bond tax rate ("BTR") and taxable value of property ("DPV") for the 2015-2016 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article in effect for the 2015 tax year as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had been in effect for the 2014 tax year. This subsection expires September 1, 2016.

SECTION 22. Section 46.032, Education Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any other provision of this chapter, in computing a district's existing debt tax rate ("EDTR") and taxable value of property ("DPV") for the 2015-2016 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article in effect for the 2015 tax year as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had been in effect for the 2014 tax year. This subsection expires September 1, 2016.

SECTION 23. Chapter 46, Education Code, is amended by adding Subchapter D to read as follows:

**SUBCHAPTER D. STATE AID FOR HOMESTEAD EXEMPTION AND
LIMITATION ON TAX INCREASES**

Sec. 46.071. ADDITIONAL STATE AID FOR HOMESTEAD EXEMPTION AND LIMITATION ON TAX INCREASES. (a) Beginning with the 2015-2016 school year, a school district is entitled to additional state aid under this subchapter to the extent that state and local revenue used to service debt eligible under this chapter is less than the state and local revenue that would have been available to the district under this chapter as it existed on September 1, 2015, if the increase in the residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had not occurred.

(b) Subject to Subsections (c)-(e), additional state aid under this section is equal to the amount by which the loss of local interest and sinking revenue for debt service attributable to the increase in the residence homestead exemption under Section

1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, is not offset by a gain in state aid under this chapter.

(c) For the purpose of determining state aid under this section, local interest and sinking revenue for debt service is limited to revenue required to service debt eligible under this chapter as of September 1, 2015, including refunding of that debt, subject to Section 46.061. The limitation imposed by Section 46.034(a) does not apply for the purpose of determining state aid under this section.

(d) If the amount required to pay debt service eligible under this section is less than the sum of state and local assistance provided under this chapter, including the amount of additional aid provided under this section, the district may not receive aid under this section in excess of the amount that, when added to the district's local interest and sinking revenue for debt service for the school year, as defined by this section, and state aid under Subchapters A and B, equals the amount required to pay the eligible debt service.

(e) The commissioner, using information provided by the comptroller and other information as necessary, shall compute the amount of additional state aid to which a district is entitled under this section. A determination by the commissioner under this section is final and may not be appealed.

SECTION 24. (a) Section 403.302(j), Government Code, is amended to read as follows:

(j) The [For purposes of Chapter 42, Education Code, the] comptroller shall certify the final taxable value for each school district, appropriately adjusted to give effect to certain provisions of the Education Code related to school funding, to the commissioner of education as provided by the terms of a memorandum of understanding entered into between the comptroller, the Legislative Budget Board, and the commissioner of education[;

~~[(1) a final value for each school district computed on a residence homestead exemption under Section 1 b(e), Article VIII, Texas Constitution, of \$5,000;~~

~~[(2) a final value for each school district computed on:~~

~~[(A) a residence homestead exemption under Section 1 b(e), Article VIII, Texas Constitution, of \$15,000; and~~

~~[(B) the effect of the additional limitation on tax increases under Section 1 b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997; and~~

~~[(3) a final value for each school district computed on the effect of the reduction of the limitation on tax increases to reflect any reduction in the school district tax rate as provided by Section 11.26(a-1), (a-2), or (a-3), Tax Code, as applicable].~~

(b) Section 403.302(k), Government Code, is repealed.

SECTION 25. (a) An assessor or collector for a school district is not liable for civil damages or subject to criminal prosecution for compliance in good faith with Section 31.01, Tax Code, as amended by this Act.

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members of each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for this section to take immediate effect, this section takes effect on the 91st day after the last day of the legislative session.

(c) This section expires December 31, 2018.

SECTION 26. This Act applies beginning with the 2015 tax year.

SECTION 27. (a) Except as provided by Subsection (b) of this section or as otherwise provided by this Act:

(1) this Act takes effect on the date on which the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, takes effect; and

(2) if that amendment is not approved by the voters, this Act has no effect.

(b) Sections 25.23(a-1), 26.04(a-1) and (c-1), 26.08(q), 26.09(c-1), 26.15(h), 31.01(d-2), (d-3), (d-4), and (d-5), and 31.02(a-1), Tax Code, and Sections 41.004(a-1), (b-1), and (c-1), 41.0042, 41.0121, 41.094(a-1), 41.0981, and 41.208(a-1), Education Code, as added by this Act, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for those sections to have immediate effect, those sections take effect on the 91st day after the last day of the legislative session.

The Conference Committee Report on **SB 1** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1139

Senator Huffman submitted the following Conference Committee Report:

Austin, Texas
May 28, 2015

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1139** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HUFFMAN
CAMPBELL
NELSON
ZAFFIRINI
On the part of the Senate

SMITHEE
LAUBENBERG
D. MILLER
S. THOMPSON
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the operation and administration of and practice in courts in the judicial branch of state government, the composition of certain juvenile boards, and the increase of certain filing fees.

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

ARTICLE 1. ASSOCIATE JUDGES FOR CHILD SUPPORT AND CHILD
PROTECTION CASES

SECTION 1.01. Section 201.101, Family Code, is amended by amending Subsections (b) and (d) and adding Subsection (b-1) to read as follows:

(b) If the presiding judge of an administrative judicial region determines under Subsection (a) that the courts in the region require the appointment of an associate judge, the presiding judge shall appoint an associate judge from a list of the qualified applicants who have submitted an application to the office of court administration. Before making the appointment, the presiding judge must provide the list to the judges of the courts from which cases will be referred to the associate judge. Each judge may recommend to the presiding judge the names of one or more applicants for appointment. An associate judge appointed under this subsection serves for a term of four years from the date the associate judge is appointed and qualifies for office. The appointment of an associate judge for a term does not affect the at-will employment status of the associate judge. The presiding judge ~~may limit the appointment to a specified time period and~~ may terminate an appointment at any time.

(b-1) Before reappointing an associate judge appointed under Subsection (b), the presiding judge must notify each judge of the courts from which cases will be referred to the associate judge of the presiding judge's intent to reappoint the associate judge to another term. Each judge may submit to the presiding judge a recommendation on whether the associate judge should be reappointed.

(d) ~~[If the presiding judge determines that a court requires an associate judge for Title IV-D cases, the presiding judge shall appoint an associate judge for that purpose.]~~ Except as provided under Subsection (e), if an associate judge is appointed for a court under this subchapter, all Title IV-D cases shall be referred to the associate judge by a general order for each county issued by the judge of the court for which the associate judge is appointed, or, in the absence of that order, by a general order issued by the presiding judge who appointed the associate judge. Referral of Title IV-D cases may not be made for individual cases or case by case.

SECTION 1.02. Section 201.1066, Family Code, is amended to read as follows:

Sec. 201.1066. SUPERVISION OF ASSOCIATE JUDGES. (a) The office of court administration shall assist the presiding judges in:

(1) monitoring the associate judges' compliance with job performance standards and federal and state laws and policies;

(2) addressing the training needs and resource requirements of the associate judges;

(3) conducting annual performance evaluations for the associate judges and other personnel appointed under this subchapter based on written personnel performance standards adopted by the presiding judges and performance information solicited from the referring courts and other relevant persons; and

(4) receiving, investigating, and resolving complaints about particular associate judges or the associate judge program under this subchapter based on a uniform process adopted by the presiding judges.

(b) The office of court administration shall develop procedures and a written evaluation form to be used by the presiding judges in conducting the annual performance evaluations under Subsection (a)(3).

(c) Each judge of a court that refers cases to an associate judge under this subchapter may submit to the presiding judge or the office of court administration information on the associate judge's performance during the preceding year based on a uniform process adopted by the presiding judges.

SECTION 1.03. Section 201.201, Family Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (b-1) to read as follows:

(a) The presiding judge of each administrative judicial region, after conferring with the judges of courts in the region having family law jurisdiction and a child protection caseload, shall determine which courts require the appointment of a full-time or part-time associate judge to complete cases under Subtitle E within the times specified under that subtitle.

(b) If the presiding judge of an administrative judicial region determines under Subsection (a) that the courts in the region require the appointment of an associate judge, the presiding judge shall appoint an associate judge from a list of the qualified applicants who have submitted an application to the office of court administration. Before making the appointment, the presiding judge must provide the list to the judges of the courts from which cases will be referred to the associate judge. Each judge may recommend to the presiding judge the names of one or more applicants for appointment. An associate judge appointed under this subsection serves for a term of four years from the date the associate judge is appointed and qualifies for office. The appointment of an associate judge for a term does not affect the at-will employment status of the associate judge. The presiding judge ~~[may limit the appointment to a specified period and]~~ may terminate an appointment at any time.

(b-1) Before reappointing an associate judge appointed under Subsection (b), the presiding judge must notify each judge of the courts from which cases will be referred to the associate judge of the presiding judge's intent to reappoint the associate judge to another term. Each judge may submit to the presiding judge a recommendation on whether the associate judge should be reappointed.

(d) ~~[If the presiding judge determines that a court requires an associate judge, the presiding judge shall appoint an associate judge.]~~ If an associate judge is appointed for a court, all child protection cases shall be referred to the associate judge by a general order for each county issued by the judge of the court for which the associate judge is appointed or, in the absence of that order, by a general order issued by the presiding judge who appointed the associate judge.

SECTION 1.04. Section 201.2061, Family Code, is amended to read as follows:

Sec. 201.2061. SUPERVISION OF ASSOCIATE JUDGES. (a) The office of court administration shall assist the presiding judges in:

(1) monitoring the associate judges' compliance with any applicable job performance standards, uniform practices adopted by the presiding judges, and federal and state laws and policies;

(2) addressing the training needs and resource requirements of the associate judges;

(3) conducting annual performance evaluations for the associate judges and other personnel appointed under this subchapter based on written personnel performance standards adopted by the presiding judges and performance information solicited from the referring courts and other relevant persons; and

(4) receiving, investigating, and resolving complaints about particular associate judges or the associate judge program under this subchapter based on a uniform process adopted by the presiding judges.

(b) The office of court administration shall develop procedures and a written evaluation form to be used by the presiding judges in conducting the annual performance evaluations under Subsection (a)(3).

(c) Each judge of a court that refers cases to an associate judge under this subchapter may submit to the presiding judge or the office of court administration information on the associate judge's performance during the preceding year based on a uniform process adopted by the presiding judges.

SECTION 1.05. (a) The changes in law made by this article apply to the appointment of an associate judge under Subchapters B and C, Chapter 201, Family Code, on or after the effective date of this Act.

(b) An associate judge serving under Subchapter B or C, Chapter 201, Family Code, on the effective date of this Act is subject to the changes in law made by this article on and after that date. A presiding judge of an administrative judicial region who appoints or reappoints associate judges under those subchapters is subject to the changes in law made by this article on and after that date.

(c) Not later than October 1, 2015, the presiding judge shall either reappoint an associate judge serving under Subchapter B or C, Chapter 201, Family Code, or appoint a new associate judge to serve under those subchapters consistent with the changes in law made by this article.

ARTICLE 2. DISTRICT COURTS AND DISTRICT ATTORNEYS

SECTION 2.01. Section 24.154(b), Government Code, is amended to read as follows:

(b) The terms of the 52nd District Court begin on the first Mondays in January and July ~~June~~.

SECTION 2.02. (a) Effective January 1, 2017, Section 24.275, Government Code, is amended to read as follows:

Sec. 24.275. 216TH JUDICIAL DISTRICT (GILLESPIE~~[- KENDALL]~~ AND KERR COUNTIES). The 216th Judicial District is composed of Gillespie~~[- Kendall]~~ and Kerr counties.

(b) Effective January 1, 2017, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.591 to read as follows:

Sec. 24.591. 451ST JUDICIAL DISTRICT (KENDALL COUNTY). (a) The 451st Judicial District is composed of Kendall County.

(b) In addition to the other jurisdiction provided by law, the 451st District Court has concurrent jurisdiction with the County Court of Kendall County in all civil and criminal matters over which the county court would have original or appellate jurisdiction, including probate matters and proceedings under Subtitle C, Title 7, Health and Safety Code.

(c) All civil and criminal matters within the concurrent jurisdiction of the county and district courts must be filed with the county clerk in the county court. The county clerk serves as the clerk of the district court for those matters.

(c) Effective January 1, 2017, Section 44.001, Government Code, is amended to read as follows:

Sec. 44.001. ELECTION. The voters of each of the following counties elect a criminal district attorney: Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jackson, Jasper, Jefferson, Kaufman, Kendall, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum.

(d) Effective January 1, 2017, Subchapter B, Chapter 44, Government Code, is amended by adding Section 44.230 to read as follows:

Sec. 44.230. KENDALL COUNTY. (a) The criminal district attorney of Kendall County must meet the following qualifications:

(1) be at least 30 years old;

(2) have been a practicing attorney in this state for at least five years; and

(3) have been a resident of Kendall County for at least one year before

election or appointment.

(b) The criminal district attorney has all the powers, duties, and privileges in Kendall County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall attend each term and session of the district and inferior courts of Kendall County, except municipal courts, held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(d) The criminal district attorney shall represent Kendall County in any court in which the county has pending business. This subsection does not require the criminal district attorney to represent the county in a delinquent tax suit or condemnation proceeding and does not prevent the county from retaining other legal counsel in a civil matter at any time it considers appropriate to do so.

(e) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(f) The criminal district attorney is entitled to receive in equal monthly installments compensation from the state equal to the amount paid by the state to district attorneys. The state compensation shall be paid by the comptroller as appropriated by the legislature. The Commissioners Court of Kendall County shall pay the criminal district attorney an additional amount so that the total compensation of the criminal district attorney equals at least 90 percent of the total salary paid to the

judge of the 451st District Court in Kendall County. The compensation paid by the county shall be paid in semiweekly or bimonthly installments, as determined by the commissioners court.

(g) The criminal district attorney or the Commissioners Court of Kendall County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting effective prosecution, crime prevention or suppression, rehabilitation of offenders, substance abuse education, treatment and prevention, or crime victim assistance programs in Kendall County. The criminal district attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

(h) The criminal district attorney, for the purpose of conducting affairs of the office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel that the commissioners court may authorize. The salary of a staff member is an amount recommended by the criminal district attorney and approved by the commissioners court. The commissioners court shall pay the salaries of the staff in equal semiweekly or bimonthly installments from county funds.

(i) The criminal district attorney shall, with the advice and consent of the commissioners court, designate one or more individuals to act as an assistant criminal district attorney with exclusive responsibility for assisting the commissioners court. An individual designated as an assistant criminal district attorney under this subsection must have extensive experience in representing public entities and knowledge of the laws affecting counties, including the open meetings and open records laws under Chapters 551 and 552.

(j) Kendall County is entitled to receive from the state an amount equal to the amount provided in the General Appropriations Act to district attorneys for the payment of staff salaries and office expenses.

(k) The legislature may provide for additional staff members to be paid from state funds if it considers supplementation of the criminal district attorney's staff to be necessary.

(l) The criminal district attorney and assistant criminal district attorney may not engage in the private practice of law or receive a fee for the referral of a case.

(e) Effective January 1, 2017, Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 18th, 21st, 23rd, ~~[25th,~~ 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 79th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th, 123rd, 132nd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 286th, 287th, 329th, 344th, 349th, 355th, 369th, 452nd, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Kendall, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Aransas, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Freestone, Gonzales, Guadalupe, Lamar, Lamb, Lampasas, Lavaca, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Oldham, Orange, Rains, Red River, Robertson, Rusk, Swisher, Terry, Webb, and Willacy.

(f) Effective January 1, 2017, the office of county attorney of Kendall County is abolished.

(g) Sections 25.1321 and 25.1322, Government Code, are repealed, and the County Court at Law of Kendall County is abolished on the date the 451st District Court is created.

(h) On the date the 451st District Court is created, all cases from Kendall County pending in the 216th District Court are transferred to the 451st District Court. On the date the County Court at Law of Kendall County is abolished, all cases pending in the court are transferred to the 451st District Court. When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred and all witnesses summoned to appear in a court from which a case is transferred are required to appear before the court to which a case is transferred as if originally required to appear before the court to which the transfer is made.

(i) The 451st Judicial District is created January 1, 2017.

SECTION 2.03. (a) Effective January 1, 2017, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.584 to read as follows:

Sec. 24.584. 440TH JUDICIAL DISTRICT (CORYELL COUNTY). The 440th Judicial District is composed of Coryell County.

(b) The 440th Judicial District is created January 1, 2017.

(c) Subchapter D, Chapter 74, Government Code, is amended by adding Section 74.0971 to read as follows:

Sec. 74.0971. LOCAL ADMINISTRATIVE DISTRICT JUDGE FOR CORYELL COUNTY. Notwithstanding Section 74.091(b), the local administrative district judge for Coryell County is selected on the basis of seniority from the district judges of the 52nd Judicial District and the 440th Judicial District.

SECTION 2.04. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.590 to read as follows:

Sec. 24.590. 446TH JUDICIAL DISTRICT (ECTOR COUNTY). The 446th Judicial District is composed of Ector County.

(b) The 446th Judicial District is created September 1, 2015.

SECTION 2.05. (a) Effective January 1, 2016, Subchapter D, Chapter 24, Government Code, is amended by adding Section 24.641 to read as follows:

Sec. 24.641. 507TH JUDICIAL DISTRICT (HARRIS COUNTY). The 507th Judicial District is composed of Harris County.

(b) The 507th Judicial District is created January 1, 2016.

SECTION 2.06. (a) Subchapter D, Chapter 24, Government Code, is amended by adding Sections 24.642 and 24.643 to read as follows:

Sec. 24.642. 469TH JUDICIAL DISTRICT (COLLIN COUNTY). The 469th Judicial District is composed of Collin County. The 469th District Court shall hear family law matters.

Sec. 24.643. 470TH JUDICIAL DISTRICT (COLLIN COUNTY). The 470th Judicial District is composed of Collin County. The 470th District Court shall hear family law matters.

(b) The 469th and 470th Judicial Districts are created September 1, 2015.

SECTION 2.07. (a) Subchapter D, Chapter 24, Government Code, is amended by adding Section 24.644 to read as follows:

Sec. 24.644. 505TH JUDICIAL DISTRICT (FORT BEND COUNTY). The 505th Judicial District is composed of Fort Bend County.

(b) The 505th Judicial District is created September 1, 2015.

SECTION 2.08. (a) Effective September 1, 2015, Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 79th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th, 123rd, 132nd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 286th, 287th, 329th, 344th, 349th, 355th, 369th, 452nd, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Aransas, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Freestone, Gonzales, Lamar, Lamb, Lampasas, Lavaca, Lee, Limestone, Marion, Milam, Morris, Ochiltrie, Oldham, Orange, Rains, Red River, Robertson, Rusk, Swisher, Terry, Webb, and Willacy.

(b) Section 43.156(b), Government Code, is repealed.

ARTICLE 3. STATUTORY COUNTY COURTS, COUNTY COURTS, COUNTY ATTORNEYS, AND CERTAIN COUNTY JUDGES

SECTION 3.01. (a) Section 25.0331(a), Government Code, is amended to read as follows:

(a) Cameron County has the following statutory county courts:

- (1) County Court at Law No. 1 of Cameron County;
- (2) County Court at Law No. 2 of Cameron County; ~~and~~
- (3) County Court at Law No. 3 of Cameron County;
- (4) County Court at Law No. 4 of Cameron County; and
- (5) County Court at Law No. 5 of Cameron County.

(b) Section 25.0332, Government Code, is amended by adding Subsection (b) to read as follows:

(b) The County Court at Law No. 4 of Cameron County shall give preference to probate, guardianship, and mental health matters.

(c) The County Court at Law No. 4 of Cameron County is created January 1, 2017.

(d) The County Court at Law No. 5 of Cameron County is created January 1, 2018.

SECTION 3.02. (a) Section 25.0451(a), Government Code, is amended to read as follows:

(a) Collin County has the following statutory county courts:

- (1) County Court at Law No. 1 of Collin County;
- (2) County Court at Law No. 2 of Collin County;
- (3) County Court at Law No. 3 of Collin County;
- (4) County Court at Law No. 4 of Collin County;
- (5) County Court at Law No. 5 of Collin County; ~~and~~
- (6) County Court at Law No. 6 of Collin County; and
- (7) County Court at Law No. 7 of Collin County.

(b) The County Court at Law No. 7 of Collin County is created on the effective date of this Act.

SECTION 3.03. (a) Section 25.0811, Government Code, is amended to read as follows:

Sec. 25.0811. FORT BEND COUNTY. Fort Bend County has the following statutory county courts:

- (1) County Court at Law No. 1 of Fort Bend County;
- (2) County Court at Law No. 2 of Fort Bend County;
- (3) County Court at Law No. 3 of Fort Bend County; ~~and~~
- (4) County Court at Law No. 4 of Fort Bend County; and
- (5) County Court at Law No. 5 of Fort Bend County.

(b) The County Court at Law No. 5 of Fort Bend County is created January 1, 2016.

SECTION 3.04. (a) Effective January 1, 2016, Section 25.1031(b), Government Code, is amended to read as follows:

(b) Harris County has the following county criminal courts:

- (1) County Criminal Court at Law No. 1 of Harris County, Texas;
- (2) County Criminal Court at Law No. 2 of Harris County, Texas;

- (3) County Criminal Court at Law No. 3 of Harris County, Texas;
- (4) County Criminal Court at Law No. 4 of Harris County, Texas;
- (5) County Criminal Court at Law No. 5 of Harris County, Texas;
- (6) County Criminal Court at Law No. 6 of Harris County, Texas;
- (7) County Criminal Court at Law No. 7 of Harris County, Texas;
- (8) County Criminal Court at Law No. 8 of Harris County, Texas;
- (9) County Criminal Court at Law No. 9 of Harris County, Texas;
- (10) County Criminal Court at Law No. 10 of Harris County, Texas;
- (11) County Criminal Court at Law No. 11 of Harris County, Texas;
- (12) County Criminal Court at Law No. 12 of Harris County, Texas;
- (13) County Criminal Court at Law No. 13 of Harris County, Texas;
- (14) County Criminal Court at Law No. 14 of Harris County, Texas; ~~[and]~~
- (15) County Criminal Court at Law No. 15 of Harris County, Texas; and
- (16) County Criminal Court at Law No. 16 of Harris County, Texas.

(b) The County Criminal Court at Law No. 16 of Harris County is created January 1, 2016.

SECTION 3.05. Section 25.1112(e), Government Code, is amended to read as follows:

(e) The district clerk serves as the clerk of a county court at law for all criminal and civil matters except that the county clerk serves as the clerk of the county court at law in ~~[uncontested]~~ probate and guardianship matters. ~~[The county clerk shall transfer to the district clerk any contested probate and guardianship matters filed with the county clerk.]~~

SECTION 3.06. Section 25.2222(a), Government Code, is amended to read as follows:

(a) A county court at law in Tarrant County has jurisdiction over all civil matters and causes, original and appellate, prescribed by law for county courts. The County Court at Law No. 1 of Tarrant County also has jurisdiction over all criminal matters and causes, original and appellate, prescribed by law for county courts. The County Courts at Law Nos. 2 and 3 of Tarrant County do not have criminal jurisdiction. Notwithstanding any other provision, a county court at law in Tarrant County has jurisdiction on any appeal from a municipal court of record in Tarrant County that is not an appeal of a criminal law case or proceeding.

SECTION 3.07. (a) Subchapter D, Chapter 25, Government Code, is amended by adding Section 25.2607 to read as follows:

Sec. 25.2607. DESIGNATION OF ADMINISTRATIVE COUNTY FOR MULTICOUNTY STATUTORY COUNTY COURTS. (a) If a statute that establishes a multicounty statutory county court does not designate one of the counties that compose the multicounty statutory county court as the administrative county for that court, the county with the greatest population of the counties composing the court at the time the court is established is the administrative county for that court.

(b) The commissioners courts of the counties that compose a multicounty statutory county court may enter into an agreement to provide support for the court. The administrative county for the court may receive contributions from the other counties composing the court to pay the operating expenses of the court.

(c) Except for money provided by state appropriations or under an agreement under Subsection (b), the administrative county shall pay out of the county's general fund the salaries, compensation, and expenses incurred in operating the multicounty statutory county court.

(d) Notwithstanding Section 25.0015, the state shall annually compensate the administrative county of a multicounty statutory county court in an amount equal to 100 percent of the state salary of a district court judge in the county for the salary of the judge of the multicounty statutory county court.

(e) The court fees and costs collected by the clerk of a multicounty statutory county court shall be deposited in the appropriate county fund as provided by law.

(b) Effective January 1, 2019, Section 25.2701, Government Code, is amended to read as follows:

Sec. 25.2701. 1ST MULTICOUNTY COURT AT LAW (FISHER[~~MITCHELL~~] AND NOLAN COUNTIES). Fisher[~~Mitchell~~] and Nolan Counties have a multicounty statutory county court composed of those counties, the 1st Multicounty Court at Law.

(c) Section 25.2702, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Nolan County is the administrative county for the 1st Multicounty Court at Law.

(d) Section 25.2702(g), Government Code, is repealed.

SECTION 3.08. Section 26.223, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) If the county judge is licensed to practice law in this state, the ~~[The]~~ County Court of Jefferson County has ~~[the general]~~ jurisdiction concurrent with the County Court at Law of Jefferson County over all causes and proceedings, civil and criminal, ~~[of a probate court and]~~ juvenile and probate, original and appellate, over which by the constitution and general laws of this state county courts have jurisdiction ~~[as provided by Section 26.042(b) but has no other civil or criminal jurisdiction].~~

(a-1) If the county judge is not licensed to practice law in this state, the County Court of Jefferson County has concurrent jurisdiction with the county courts at law in Jefferson County only in probate proceedings, administrations of estates, guardianship proceedings, mental illness proceedings, and juvenile matters as provided by Section 26.042(b).

SECTION 3.09. (a) Section 43.122, Government Code, is amended to read as follows:

Sec. 43.122. 36TH JUDICIAL DISTRICT. The voters of ~~[Aransas and]~~ San Patricio County ~~[counties]~~ elect a district attorney for the 36th Judicial District who represents the state in that district court only in that county ~~[those counties]~~. In addition to exercising the duties and authority conferred on district attorneys by general law, the district attorney represents the state in all criminal cases in the district courts in that county ~~[those counties]~~.

(b) Subchapter B, Chapter 45, Government Code, is amended by adding Section 45.104 to read as follows:

Sec. 45.104. ARANSAS COUNTY. (a) In Aransas County, the county attorney of Aransas County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Aransas County or the Commissioners Court of Aransas County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Aransas County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

SECTION 3.10. (a) Effective January 1, 2017, Subchapter B, Chapter 45, Government Code, is amended by adding Section 45.194 to read as follows:

Sec. 45.194. GUADALUPE COUNTY. (a) In Guadalupe County the county attorney of Guadalupe County shall perform the duties imposed on and have the powers conferred on district attorneys by general law and is entitled to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by the state.

(b) The county attorney of Guadalupe County or the Commissioners Court of Guadalupe County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Guadalupe County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

(b) Effective January 1, 2017, Section 43.112, Government Code, as amended by Chapters 644 (H.B. 717) and 872 (H.B. 696), Acts of the 83rd Legislature, Regular Session, 2013, is repealed.

(c) On January 1, 2017, the office of district attorney for the 25th Judicial District is abolished.

ARTICLE 4. ELECTRONIC FILING

SECTION 4.01. Section 51.851(b), Government Code, is amended to read as follows:

(b) In addition to other fees authorized or required by law, the clerk of the supreme court, a court of appeals, a district court, a county court, a statutory county court, or a statutory probate court shall collect a \$30 ~~[\$20]~~ fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to be used as provided by Section 51.852.

SECTION 4.02. Section 51.607, Government Code, does not apply to the imposition of a fee assessed under Section 51.851(b), Government Code, as amended by this article.

SECTION 4.03. The change in law made by amending Section 51.851(b), Government Code, applies only to a fee that becomes payable on or after September 1, 2015. A fee that becomes payable before that date is governed by the law in effect when the fee became payable, and the former law is continued in effect for that purpose.

ARTICLE 5. BAILIFFS

SECTION 5.01. Chapter 53, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. BAILIFFS FOR COUNTY COURTS AT LAW IN TARRANT COUNTY

Sec. 53.101. ASSIGNMENT OF BAILIFF. At least one bailiff shall be assigned regularly to each county court at law of Tarrant County.

Sec. 53.102. OFFICE OF BAILIFF; APPOINTMENT. (a) The judge of each county court at law of Tarrant County may appoint one person to serve as bailiff of that court.

(b) The bailiff is an officer of the court and performs the duties of the office under the direction and supervision of the judge of the court.

Sec. 53.103. TERM OF OFFICE. The bailiff holds office at the will of the judge of the court served by the bailiff.

Sec. 53.104. DUTIES. A bailiff shall perform the duties imposed on bailiffs under the general laws of this state and the other duties required by the judge of the court served.

Sec. 53.105. ASSIGNMENT OF BAILIFF BY SHERIFF. (a) If the judge of a county court at law of Tarrant County does not appoint a person to serve as bailiff under Section 53.102, the sheriff of Tarrant County shall assign a bailiff for the court on written request of the judge.

(b) A bailiff assigned by the sheriff serves at the pleasure of the court to which the bailiff is assigned and shall perform the duties required by the judge of the court.

(c) On request of the judge of a county court at law, the sheriff shall immediately assign a bailiff to the court served by the judge to fill a temporary absence of the appointed or assigned bailiff.

Sec. 53.106. COMPENSATION. A bailiff appointed by the judge of a county court at law of Tarrant County shall be compensated out of the general fund of the county in an amount to be set by the Commissioners Court of Tarrant County.

SECTION 5.02. Chapter 53, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. BAILIFFS FOR FAMILY DISTRICT COURTS IN TARRANT COUNTY

Sec. 53.121. OFFICE OF BAILIFF. The judges of the 231st, 233rd, 322nd, 323rd, 324th, 325th, and 360th district courts may appoint one person to serve as bailiff of that court and one person to serve as bailiff for the district court served by an associate judge of that district court. A bailiff is an officer of the court and performs the duties of the office under the direction and supervision of the judge of the court.

Sec. 53.122. APPOINTMENT. An order signed by the appointing judge and entered on the minutes of the court is evidence of appointment of a bailiff. The judge shall give written notice to the commissioners court and each constable of Tarrant County of the appointment and date employed.

Sec. 53.123. QUALIFICATIONS. A bailiff must be a citizen of the United States and must be 18 years of age or older.

Sec. 53.124. BAILIFF AS DEPUTY. On written notice of the appointment from the judge, a constable of the county may deputize the bailiff in addition to other deputies authorized by law.

Sec. 53.125. OATH. The following oath must be administered by the appointing judge to the bailiff appointed under this subchapter: "I solemnly swear that I will perform faithfully and impartially all duties required of me and required by law so help me God."

Sec. 53.126. TERM OF OFFICE. The bailiff holds office at the will of the judge of the court served by the bailiff.

Sec. 53.127. DUTIES. A bailiff shall perform the duties imposed on bailiffs under the general laws of this state and the other duties required by the judge of the court served.

Sec. 53.128. COMPENSATION. The bailiff shall be compensated out of the general fund of the county in an amount to be set by the Commissioners Court of Tarrant County.

ARTICLE 6. CERTAIN CRIMINAL LAW MAGISTRATE COURTS, CERTAIN CRIMINAL LAW HEARING OFFICERS, AND A JUVENILE BOARD

SECTION 6.01. (a) Section 54.732, Government Code, is amended to read as follows:

Sec. 54.732. CREATION. The El Paso Criminal Law Magistrate Court is a court having the jurisdiction provided by this subchapter over offenses allegedly committed in El Paso County [~~except for that portion of the county in the corporate limits of Vinton, Texas~~].

(b) Section 54.733, Government Code, is amended by adding Subsection (j) to read as follows:

(j) The criminal law magistrate court has concurrent criminal jurisdiction with the justice courts located in El Paso County.

(c) Section 54.735, Government Code, is amended to read as follows:

Sec. 54.735. POWERS AND DUTIES. (a) The criminal law magistrate court or a judge of the criminal law magistrate court may issue writs of injunction and all other writs necessary for the enforcement of the jurisdiction of the court and may issue misdemeanor writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and the judge may punish for contempt as provided by law for district courts. A judge of the criminal law magistrate court has all other powers, duties, immunities, and privileges provided by law for:

(1) justices of the peace when acting in a Class C misdemeanor case;

(2) county court judges when acting in a Class A or Class B misdemeanor case; and

(3) ~~for~~ district court judges when acting in a felony case.

(b) A judge of the criminal law magistrate court may hold an indigency hearing and a capias pro fine hearing. When acting as the judge who issued the capias pro fine, a judge of the criminal law magistrate court may make all findings of fact and conclusions of law required of the judge who issued the capias pro fine. In conducting a hearing under this subsection, the judge of the criminal law magistrate court is empowered to make all findings of fact and conclusions of law and to issue all orders

necessary to properly dispose of the capias pro fine or indigency hearing in accordance with the provisions of the Code of Criminal Procedure applicable to a misdemeanor or felony case of the same type and level.

(d) Section 54.736(b), Government Code, is amended to read as follows:

(b) The council of judges shall ensure that the criminal law magistrate court gives preference to magistrate duties, as those duties apply to the county jail inmate population first and then to newly detained individuals, until the commissioners court provides funds for more than one judge to sit on the criminal law magistrate court.

(e) Section 54.737(c), Government Code, is amended to read as follows:

(c) The rules must provide that[=

~~[(1) a criminal law magistrate judge may not, on a regular basis, hold court or perform magistrate duties after 7 p.m. or before 7 a.m.; and~~

~~[(2)]~~ a criminal law magistrate judge may only release a defendant under Article 17.031, Code of Criminal Procedure, under guidelines established by the council of judges.

(f) Sections 54.738(a) and (c), Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b) or local administrative rules, the local administrative judge or a judge of the criminal law magistrate court may transfer between courts a case that is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction if the case is:

(1) an [any] unindicted felony case;

(2) a[=] Class A [~~misdemeanor case,~~] or Class B misdemeanor case if an information has not been filed; or

(3) a Class C misdemeanor [and if the] case [is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction].

(c) Except as provided by Subsection (d) or local administrative rules, the local administrative judge may assign a judge on the council of judges, a judge of the criminal law magistrate court, a retired judge, or any other magistrate to act as presiding judge in a case that is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction if the case is:

(1) an [any] unindicted felony case;

(2) a[=] Class A [~~misdemeanor case,~~] or Class B misdemeanor case if an information has not been filed; or

(3) a Class C misdemeanor [and if the] case [is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction].

(g) Section 54.739(d), Government Code, is amended to read as follows:

(d) A case assigned under this subchapter to the criminal law magistrate court from a district court, ~~or~~ a county court at law, or a justice court remains on the docket of the assigning court and in the assigning court's jurisdiction.

(h) Section 54.741, Government Code, is amended to read as follows:

Sec. 54.741. FORFEITURES. Bail bonds and personal bonds may be forfeited by the criminal law magistrate court in the manner provided by Chapter 22, Code of Criminal Procedure, and those forfeitures shall be filed with:

(1) the district clerk if associated with a felony case;

(2) ~~[, except in cases in which]~~ the county clerk if associated with a Class A or Class B misdemeanor case; or

(3) the same justice court clerk associated with the Class C misdemeanor case in which the bond was originally filed ~~[is the clerk under this subchapter].~~

(i) Section 54.742, Government Code, is amended by adding Subsection (c) to read as follows:

(c) When a justice clerk is the clerk under this subchapter, the justice clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the criminal law magistrate court that are charged in the justice courts.

(j) Section 54.744, Government Code, is amended to read as follows:

Sec. 54.744. JUDGES ON EL PASO COUNCIL OF JUDGES. Unless the local rules of administration provide otherwise, the judges on the El Paso Council of Judges and the judges on the criminal law magistrate court may sit and act for any magistrate in El Paso County on any unindicted felony or Class A or B misdemeanor case if an information has not been filed or any Class C misdemeanor case filed in a justice court.

(k) Section 54.745(a), Government Code, is amended to read as follows:

(a) As a condition for a defendant to enter any pretrial diversion program, including a behavioral modification program, a health care program, a specialty court program, or the functional equivalent that may be operated in El Paso County by El Paso County, Emergency Health Network, the City of El Paso, the West Texas Regional Adult Probation Department, a community partner approved by the council of judges, or a county or district attorney of El Paso County, a defendant must file in the court in which the charges are pending a sworn waiver of speedy trial motion requesting the court to approve without a hearing defendant's waiver of his speedy trial rights under the constitution and other law. If the court approves the waiver, the defendant is eligible for consideration for acceptance into a pretrial diversion program or equivalent program.

(l) Sections 54.746(d) and (e), Government Code, are amended to read as follows:

(d) A judge of a county court at law in El Paso County shall exercise jurisdiction granted by Subsection (a) over felony indictments and felony informations and justice court cases ~~[information]~~ only as a judge presiding for the court in which the felony or Class C misdemeanor is pending and only if the El Paso Council of Judges has so provided in the local administrative rules by a unanimous vote. The exercise of this jurisdiction outside El Paso County is as provided by Chapter 74 and other law.

(e) A judge of a district court in El Paso County shall exercise jurisdiction granted by Subsection (a) over misdemeanor information and justice court cases only as a judge presiding for the court in which the misdemeanor is pending and only if the council of judges has so provided in the local administrative rules by a unanimous vote. The exercise of this jurisdiction outside El Paso County is as provided by the Court Administration Act (Chapter 74) and other law.

(m) Section 54.750, Government Code, is amended by adding Subsection (d) to read as follows:

(d) When conducting a capias pro fine hearing for any court, the criminal law magistrate court acts in the same capacity and with the same authority as the judge who issued the capias pro fine.

(n) Sections 54.753(a) and (b), Government Code, are amended to read as follows:

(a) The district clerk serves as clerk of the criminal law magistrate court, except that:

(1) after a Class A or Class B misdemeanor information is filed in the county court at law and assigned to the criminal law magistrate court, the county clerk serves as clerk for that misdemeanor case; and

(2) after a Class C misdemeanor is filed in a justice court and assigned to the criminal law magistrate court, the originating justice court clerk serves as clerk for that misdemeanor case.

(b) The district clerk shall establish a docket and keep the minutes for the cases filed in or transferred to the criminal law magistrate court. The district clerk shall perform any other duties that local administrative rules require in connection with the implementation of this subchapter. The local administrative judge shall ensure that the duties required under this subsection are performed. To facilitate the duties associated with serving as the clerk of the criminal law magistrate court, the district clerk and the deputies of the district clerk may serve as deputy justice clerks and deputy county clerks at the discretion of the district clerk.

(o) Section 54.759, Government Code, is amended to read as follows:

Sec. 54.759. LOCATION OF COURT. (a) The criminal law magistrate court may be held at one or more locations ~~[the location that is]~~ provided by the local administrative rules or ordered by the local administrative judge.

(b) A defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court.

SECTION 6.02. (a) Section 54.1356(a), Government Code, is amended to read as follows:

(a) A criminal law hearing officer appointed under this subchapter has limited concurrent jurisdiction over criminal cases filed in the district courts, statutory county courts, and justice courts of the county. The jurisdiction of the criminal law hearing officer is limited to:

(1) determining probable cause for further detention of any person detained on a criminal complaint, information, or indictment filed in the district courts, statutory county courts, or justice courts of the county;

(2) committing the defendant to jail, discharging the defendant from custody, or admitting the defendant to bail, as the law and facts of the case require;

(3) issuing search warrants and arrest warrants as provided by law for magistrates;

(4) as to criminal cases filed in justice courts, disposing of cases as provided by law, other than by trial, and collecting fines and enforcing judgments and orders of the justice courts in criminal cases;

(5) hearing, considering, and ruling on writs of habeas corpus filed under Article 17.151, Code of Criminal Procedure; ~~and~~

(6) on motion of the district attorney:

(A) dismissing a criminal case when the arresting agency has not timely filed the offense report with the district attorney; and

(B) 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; and

(7) presiding over an extradition proceeding under Article 51.13, Code of Criminal Procedure.

(b) Section 54.1358, Government Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) In accordance with Article 26.13, Code of Criminal Procedure, a criminal law hearing officer may accept a plea of guilty or nolo contendere.

(g) A criminal law hearing officer may determine whether a defendant is indigent and appoint counsel for an indigent defendant.

(c) Subchapter BB, Chapter 54, Government Code, is amended by adding Section 54.1362 to read as follows:

Sec. 54.1362. PROCEEDINGS THAT MAY BE REFERRED. A district judge or a county court at law judge may refer to a criminal law hearing officer any criminal case for proceedings involving:

(1) a bond forfeiture;

(2) the arraignment of defendants;

(3) the determination of whether a defendant is indigent and the appointment of counsel for an indigent defendant; and

(4) a negotiated plea of guilty or nolo contendere before the court, in accordance with Article 26.13, Code of Criminal Procedure.

SECTION 6.03. Section 152.0131(a), Human Resources Code, is amended to read as follows:

(a) The juvenile board of Atascosa County is composed of the county judge, ~~and~~ the district judges in Atascosa County, and the judge of the County Court at Law of Atascosa County.

ARTICLE 7. TEMPORARY JUSTICES IN CERTAIN JUSTICE PRECINCTS

SECTION 7.01. Section 27.055, Government Code, is amended by adding Subsection (g) to read as follows:

(g) This subsection applies to a county with a population of at least 120,000 but not more than 130,000, with territory less than 940 square miles that includes a state park, and with not more than two justice precincts provided that at least one of the precincts contains all or part of a municipality with a population of at least 190,000 but not more than 200,000. The county judge of a county to which this subsection applies may appoint a qualified person to serve as a temporary justice of the peace for the precinct within which a municipality or part of a municipality is located to hold court and perform the duties of the justice when necessary to dispose of accumulated business in the precinct.

ARTICLE 8. TELEPHONE INTERPRETER SERVICES IN CRIMINAL
PROCEEDING

SECTION 8.01. Article 38.30(a-1), Code of Criminal Procedure, is amended to read as follows:

(a-1) A qualified telephone interpreter may be sworn to interpret for the person in any criminal ~~[the trial of a Class C misdemeanor or a]~~ proceeding before a judge or magistrate if an interpreter is not available to appear in person at the proceeding ~~[before the court]~~ or if the only available interpreter is not considered to possess adequate interpreting skills for the particular situation or is unfamiliar with the use of slang. In this subsection, "qualified telephone interpreter" means a telephone service that employs:

(1) licensed court interpreters as defined by Section 157.001, Government Code; or

(2) federally certified court interpreters.

ARTICLE 9. COURTS AUTHORIZED TO HEAR MATTERS RELATED TO
CAPIAS PRO FINE

SECTION 9.01. Article 43.05, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) If the court that issued the capias pro fine is unavailable, the arresting officer may take the defendant to one of the following locations in lieu of placing the defendant in jail:

(1) if the court that issued the capias pro fine was a county court or a statutory county court with Class A and Class B misdemeanor jurisdiction, to another court in the same county with concurrent jurisdiction over Class A and Class B misdemeanors or to a county criminal law magistrate in the same county; or

(2) if the court that issued the capias pro fine was a district court with felony jurisdiction, to another court in the same county with concurrent jurisdiction over felony cases or to a county criminal law magistrate in the same county.

SECTION 9.02. Article 45.045, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the court that issued the capias pro fine is unavailable, the arresting officer may take the defendant to one of the following locations in lieu of placing the defendant in jail:

(1) if the court that issued the capias pro fine was a justice of the peace, to a justice of the peace or county criminal law magistrate court with jurisdiction over Class C misdemeanors that is located within the same county; or

(2) if the court that issued the capias pro fine was a municipal court, to a municipal court judge that is located within the same city.

SECTION 9.03. Article 45.046, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) For purposes of a hearing described by Subsection (a), if the court that issued the capias pro fine is unavailable, the following judicial officers may conduct the hearing:

(1) if the court that issued the capias pro fine was a justice of the peace, a justice of the peace or a county criminal law magistrate with jurisdiction over Class C misdemeanors that is located within the same county as the issuing court; or

(2) if the court that issued the capias pro fine was a municipal court, a municipal court judge that is located within the same city as the issuing municipal court.

ARTICLE 10. EFFECTIVE DATE

SECTION 10.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2015.

The Conference Committee Report on **SB 1139** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 20

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas
May 28, 2015

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 20** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON
HINOJOSA
HUFFMAN
NICHOLS
SCHWERTNER
On the part of the Senate

PRICE
COOK
FARNEY
KUEMPEL
RAYMOND
On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to state agency contracting.

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

SECTION 1. Section 321.013, Government Code, is amended by adding Subsections (k) and (l) to read as follows:

(k) In devising the audit plan under Subsection (c), the State Auditor shall consider the performance of audits on contracts entered into by the Health and Human Services Commission that exceed \$100 million in annual value, including a contract between the commission and a managed care organization. The State Auditor shall collaborate with the financial managers in the Medicaid/CHIP Division of the commission in performing an audit described by this subsection. An audit described by this subsection:

(1) may be limited in scope to target an area of the contract that the State Auditor determines poses the highest financial risk to this state; and

(2) must determine whether the entity contracting with the commission has spent state money in accordance with the purposes authorized in the contract.

(l) The State Auditor may contract with a private auditor to audit a contract under Subsection (k).

SECTION 2. Subchapter B, Chapter 403, Government Code, is amended by adding Section 403.03057 to read as follows:

Sec. 403.03057. CENTRALIZED STATE PURCHASING STUDY. (a) The comptroller, in cooperation with the governor's budget and policy staff, shall conduct a study examining the feasibility and practicality of consolidating state purchasing functions into fewer state agencies or one state agency. The study must examine the cost savings to this state that may be achieved through:

(1) abolishing offices or departments of state agencies that have a dedicated office or department for purchasing; and

(2) consolidating or reducing the number of vendors authorized to contract with this state to allow this state to better leverage its purchasing power.

(b) The comptroller shall prepare and deliver to the governor, the lieutenant governor, and each member of the legislature a report on the findings of the study conducted under Subsection (a), including:

(1) a detailed projection of expected savings or costs to this state in consolidating state purchasing;

(2) a report on the process for the legislature or the executive branch to implement the consolidation of state purchasing;

(3) a list of state agencies, including dedicated offices or departments in those agencies, with purchasing responsibilities; and

(4) the total cost to this state of the purchasing responsibilities for each state agency, including the dedicated office or department in the agency with purchasing responsibility.

(c) The comptroller shall prepare, deliver, and post on the comptroller's Internet website the report required by this section not later than December 31, 2016.

(d) The comptroller may contract with a public or private entity to conduct the study required by this section.

(e) This section expires January 1, 2018.

SECTION 3. Subchapter L, Chapter 441, Government Code, is amended by adding Section 441.1855 to read as follows:

Sec. 441.1855. RETENTION OF CONTRACT AND RELATED DOCUMENTS BY STATE AGENCIES. Notwithstanding Section 441.185 or 441.187, a state agency:

(1) shall retain in its records each contract entered into by the state agency and all contract solicitation documents related to the contract; and

(2) may destroy the contract and documents only after the seventh anniversary of the date:

(A) the contract is completed or expires; or

(B) all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the contract or documents are resolved.

SECTION 4. Subchapter C, Chapter 572, Government Code, is amended by adding Section 572.069 to read as follows:

Sec. 572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.

SECTION 5. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.067 to read as follows:

Sec. 2054.067. POSTING OF CERTAIN DOCUMENTS RELATING TO CONTRACT SOLICITATIONS. (a) The department shall post all solicitation documents related to a contract of the department, including contracts under Chapter 2157, to the centralized accounting and payroll system authorized under Sections 2101.035 and 2101.036, or any successor system used to implement the enterprise resource planning component of the uniform statewide accounting project.

(b) The documents posted under Subsection (a) must include documents showing the criteria by which the department evaluated each vendor responding to the contract solicitation and, if applicable, an explanation of why the vendor was selected by the department under Section 2157.068(b).

SECTION 6. Section 2101.001(1), Government Code, is amended to read as follows:

(1) "Enterprise resource planning" includes the administration of a state agency's:

- (A) general ledger;
- (B) accounts payable;
- (C) accounts receivable;
- (D) budgeting;
- (E) inventory;
- (F) asset management;
- (G) billing;
- (H) payroll;
- (I) projects;
- (J) grants;

(K) human resources, including administration of performance measures, time spent on tasks, and other personnel and labor issues; and

- (L) purchasing, including solicitations and contracting.

SECTION 7. Section 2101.035, Government Code, is amended by adding Subsection (i) to read as follows:

(i) State agencies shall report contract and purchasing information in the uniform manner required by the comptroller.

SECTION 8. Section 2101.036, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsection (d), a state agency in the legislative branch may elect to participate in the enterprise resource planning system developed under this section.

SECTION 9. Subchapter C, Chapter 2101, Government Code, is amended by adding Section 2101.041 to read as follows:

Sec. 2101.041. STATE AGENCY REPORTING OF CONTRACTING INFORMATION. (a) The comptroller by rule shall determine the contracting information that state agencies must report or provide using the centralized accounting and payroll system, or any successor system used to implement the enterprise resource planning component of the uniform statewide accounting project, developed under Sections 2101.035 and 2101.036.

(b) In making the determination required by this section, the comptroller shall consider requiring a state agency to report or provide:

(1) a brief summary of each contract that is quickly and easily searchable, including the contract's purpose, timeline, and deliverables;

(2) contract planning and solicitation documents;

(3) the criteria used to determine the vendor awarded the contract;

(4) if the contract was awarded based on best value to the state:

(A) a list of the factors considered in determining best value with the weight given each factor; and

(B) a statement regarding how the vendor awarded the contract provides the best value to the state in relation to other vendors who bid or otherwise responded to the contract solicitation;

(5) any statements of work and work orders prepared for or under the contract;

(6) the proposed budget for the contract;

(7) any conflict of interest documents signed by state agency purchasing personnel participating in the planning, soliciting, or monitoring of the contract;

(8) criteria used or to be used by the state agency in monitoring the contract and vendor performance under the contract;

(9) a justification for each change order, contract amendment, contract renewal or extension, or other proposed action that would result in an increase in the monetary value of a contract with an initial value exceeding \$10 million; and

(10) additional supporting documentation and justification for a change order, contract amendment, contract renewal or extension, or other proposed action of a contract described by Subdivision (9) that would result in an increase in the contract's monetary value by more than 20 percent.

SECTION 10. Subchapter B, Chapter 2155, Government Code, is amended by adding Section 2155.0755 to read as follows:

Sec. 2155.0755. VERIFICATION OF USE OF BEST VALUE STANDARD.

(a) The contract manager or procurement director of each state agency shall:

(1) approve each state agency contract for which the agency is required to purchase goods or services using the best value standard;

(2) ensure that, for each contract, the agency documents the best value standard used for the contract; and

(3) acknowledge in writing that the agency complied with the agency's and comptroller's contract management guide in the purchase.

(b) For each purchase of goods or services for which a state agency is required to use the best value standard, the comptroller shall ensure that the agency includes in the vendor performance tracking system established under Section 2262.055 information on whether the vendor satisfied that standard.

SECTION 11. Section 2155.077, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-2) to read as follows:

(a) The commission may bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, for:

(1) substandard performance under a contract with the state or a state agency;

(2) material misrepresentations in a bid or proposal to the state or a state agency or during the course of performing a contract with the state or a state agency;

(3) fraud; ~~or~~

(4) breaching a contract with the state or a state agency; or

(5) repeated unfavorable performance reviews under Section 2155.089 or repeated unfavorable classifications received by the vendor under Section 2262.055 after considering the following factors:

(A) the severity of the substandard performance by the vendor;

(B) the impact to the state of the substandard performance;

(C) any recommendations by a contracting state agency that provides an unfavorable performance review;

(D) whether debarment of the vendor is in the best interest of the state;
and

(E) any other factor that the comptroller considers relevant, as specified by comptroller rule.

(a-2) The comptroller may bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, if more than two contracts between the vendor and the state have been terminated by the state for unsatisfactory vendor performance during the preceding three years.

(b) Except as provided by Subsection (d), the commission shall bar a vendor from participating in state contracts under Subsection (a) or (a-2) for a period that is commensurate with the seriousness of the vendor's action and the damage to the state's interests.

SECTION 12. Section 2155.078, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) The commission shall establish and administer a system of training, continuing education, and certification for state agency purchasing personnel. The training and continuing education for state agency purchasing personnel must include ethics training. The commission may establish and offer appropriate training to vendors on a cost recovery basis. The commission may adopt rules to administer this section, including rules relating to monitoring a certified purchaser's compliance with the continuing education requirements of this section.

(a-1) The training, continuing education, and certification required under Subsection (a) must include:

(1) training on the selection of an appropriate procurement method by project type; and

(2) training conducted by the Department of Information Resources on purchasing technologies.

(b) Notwithstanding ~~[Except as provided by]~~ Subsection (n), all state agency purchasing personnel, including agencies exempted from the purchasing authority of the commission, must receive the training and continuing education to the extent required by rule of the commission. The training and continuing education must include ethics training. A state agency employee who is required to receive the training may not participate in purchases by the employing agency unless the employee has received the required training or received equivalent training from a national association recognized by the commission. The equivalent training may count, as provided by Subsection (k), toward the continuing education requirements.

SECTION 13. Subchapter B, Chapter 2155, Government Code, is amended by adding Section 2155.089 to read as follows:

Sec. 2155.089. REPORTING VENDOR PERFORMANCE. (a) After a contract is completed or otherwise terminated, each state agency shall review the vendor's performance under the contract.

(b) The state agency shall report to the comptroller, using the tracking system established by Section 2262.055, on the results of the review regarding a vendor's performance under a contract.

(c) This section does not apply to:

(1) an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on September 1, 2015; or

(2) a contract of the Employees Retirement System of Texas or the Teacher Retirement System of Texas except for a contract with a nongovernmental entity for claims administration of a group health benefit plan under Subtitle H, Title 8, Insurance Code.

SECTION 14. Section 2156.181(a), Government Code, is amended to read as follows:

(a) The commission may enter into one or more compacts, interagency agreements, or cooperative purchasing agreements directly with one or more state governments, agencies of other states, or other governmental entities or may participate in, sponsor, or administer a cooperative purchasing agreement through an entity that facilitates those agreements for the purchase of goods or services if the commission determines that ~~the [entering into an]~~ agreement would be in the best interest of the state.

SECTION 15. Section 2157.068, Government Code, is amended by adding Subsections (e-1) and (e-2) to read as follows:

(e-1) A state agency contracting to purchase a commodity item shall use the list maintained as required by Subsection (e) as follows:

(1) for a contract with a value of \$50,000 or less, the agency may directly award the contract to a vendor included on the list without submission of a request for pricing to other vendors on the list;

(2) for a contract with a value of more than \$50,000 but not more than \$150,000, the agency must submit a request for pricing to at least three vendors included on the list in the category to which the contract relates; and

(3) for a contract with a value of more than \$150,000 but not more than \$1 million, the agency must submit a request for pricing to at least six vendors included on the list in the category to which the contract relates or all vendors on the schedule if the category has fewer than six vendors.

(e-2) A state agency may not enter into a contract to purchase a commodity item if the value of the contract exceeds \$1 million.

SECTION 16. Subchapter B, Chapter 2157, Government Code, is amended by adding Section 2157.0685 to read as follows:

Sec. 2157.0685. CONTRACT REQUIREMENTS FOR CERTAIN SERVICES.

(a) In this section, "statement of work" means a document that states the requirements for a contract, including deliverables, performance specifications, and other requirements, specific to the vendor under that contract that are not specified in a contract awarded by the department under Section 2157.068 for contracts more than \$50,000.

(b) For a contract awarded by the department under Section 2157.068 that requires a state agency to develop and execute a statement of work to initiate services under the contract, the state agency must:

(1) consult with the department before submission of the statement of work to a vendor; and

(2) post each statement of work entered into by the agency on the agency's Internet website in the manner required by department rule.

(c) A statement of work executed by a state agency under a contract awarded by the department under Section 2157.068 is not valid and money may not be paid to the vendor under the terms of the statement of work unless the department first signs the statement of work.

SECTION 17. Section 2261.001(a), Government Code, is amended to read as follows:

(a) This chapter, other than Subchapter F, applies only to each procurement of goods or services made by a state agency that is neither made by the comptroller nor made under purchasing authority delegated to the agency by or under Section 51.9335 or 73.115, Education Code, or Section 2155.131 or 2155.132.

SECTION 18. Chapter 2261, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ETHICS, REPORTING, AND APPROVAL REQUIREMENTS
FOR CERTAIN CONTRACTS

Sec. 2261.251. APPLICABILITY OF SUBCHAPTER. (a) Notwithstanding Section 2261.001, this subchapter applies to the Texas Department of Transportation and to an institution of higher education acquiring goods or services under Section 51.9335 or 73.115, Education Code.

(b) This subchapter does not apply to a contract of the Employees Retirement System of Texas or the Teacher Retirement System of Texas except for a contract with a nongovernmental entity for claims administration of a group health benefit plan under Subtitle H, Title 8, Insurance Code.

Sec. 2261.252. DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST; CERTAIN CONTRACTS PROHIBITED. (a) Each state agency employee or official who is involved in procurement or in contract management for a state agency shall disclose to the agency any potential conflict of interest specified by state law or agency policy that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor by the agency.

(b) A state agency may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following agency employees or officials have a financial interest:

- (1) a member of the agency's governing body;
- (2) the governing official, executive director, general counsel, chief procurement officer, or procurement director of the agency; or
- (3) a family member related to an employee or official described by Subdivision (1) or (2) within the second degree by affinity or consanguinity.

(c) A state agency employee or official has a financial interest in a person if the employee or official:

(1) owns or controls, directly or indirectly, an ownership interest of at least one percent in the person, including the right to share in profits, proceeds, or capital gains; or

(2) could reasonably foresee that a contract with the person could result in a financial benefit to the employee or official.

(d) A financial interest prohibited by this section does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

Sec. 2261.253. REQUIRED POSTING OF CERTAIN CONTRACTS; ENHANCED CONTRACT AND PERFORMANCE MONITORING. (a) For each contract for the purchase of goods or services from a private vendor, each state agency shall post on its Internet website:

(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed;

(2) the statutory or other authority under which a contract that is not competitively bid under Subdivision (1) is entered into without compliance with competitive bidding procedures; and

(3) the request for proposals related to a competitively bid contract included under Subdivision (1) until the contract expires or is completed.

(b) A state agency monthly may post contracts described by Subsection (a) that are valued at less than \$15,000.

(c) Each state agency by rule shall establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body or, if the agency is not governed by a multimember governing body, the officer who governs the agency. The agency's contract management office or procurement director shall immediately notify the agency's governing body or governing official, as appropriate, of any serious issue or risk that is identified with respect to a contract monitored under this subsection.

(d) This section does not apply to a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is not a cost.

Sec. 2261.254. CONTRACTS WITH VALUE EXCEEDING \$1 MILLION.

(a) For each contract for the purchase of goods or services that has a value exceeding \$1 million, a state agency shall develop and implement contract reporting requirements that provide information on:

(1) compliance with financial provisions and delivery schedules under the contract;

(2) corrective action plans required under the contract and the status of any active corrective action plan; and

(3) any liquidated damages assessed or collected under the contract.

(b) Each state agency shall verify:

(1) the accuracy of any information reported under Subsection (a) that is based on information provided by a contractor; and

(2) the delivery time of goods or services scheduled for delivery under the contract.

(c) Except as provided by Subsection (d), a state agency may enter into a contract for the purchase of goods or services that has a value exceeding \$1 million only if:

(1) the governing body of the state agency approves the contract and the approved contract is signed by the presiding officer of the governing body; or

(2) for a state agency that is not governed by a multimember governing body, the officer who governs the agency approves and signs the contract.

(d) The governing body or governing official of a state agency, as appropriate, may delegate to the executive director of the agency the approval and signature authority under Subsection (c).

(e) A highway construction, engineering services, or maintenance contract that is in compliance with all applicable laws related to procuring engineering services or construction bidding and that is awarded by the Texas Department of Transportation under Subchapter A, Chapter 223, Transportation Code, is not required to be signed by a member of the Texas Transportation Commission or the executive director of the department. This exception does not apply to expedited highway improvement contracts under Subchapter C, Chapter 223, Transportation Code, a comprehensive development agreement entered into under Subchapter E, Chapter 223, Transportation Code, a design-build contract entered into under Subchapter F, Chapter 223, Transportation Code, or any other contract entered into by the Texas Department of Transportation.

Sec. 2261.255. CONTRACTS WITH VALUE EXCEEDING \$5 MILLION. For each state agency contract for the purchase of goods or services that has a value exceeding \$5 million, the contract management office or procurement director of the agency must:

(1) verify in writing that the solicitation and purchasing methods and contractor selection process comply with state law and agency policy; and

(2) submit to the governing body of the agency, or governing official of the agency if the agency is not governed by a multimember governing body, information on any potential issue that may arise in the solicitation, purchasing, or contractor selection process.

Sec. 2261.256. ACCOUNTABILITY AND RISK ANALYSIS PROCEDURE; CONTRACT MANAGEMENT HANDBOOK. (a) Each state agency shall develop and comply with a purchasing accountability and risk analysis procedure. The procedure must provide for:

(1) assessing the risk of fraud, abuse, or waste in the contractor selection process, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which the agency contracts;

(2) identifying contracts that require enhanced contract monitoring or the immediate attention of contract management staff; and

(3) establishing clear levels of purchasing accountability and staff responsibilities related to purchasing.

(b) Each state agency shall publish a contract management handbook that establishes consistent contracting policies and practices to be followed by the agency and that is consistent with the comptroller's contract management guide. The agency's handbook may include standard contract provisions and formats for the agency to incorporate in contracts.

(c) Each state agency shall post on the agency's Internet website the procedures described by Subsections (a)(2) and (3) and submit to the comptroller a link to the web page that includes the procedures. The comptroller shall post on the comptroller's Internet website the web page link submitted by each state agency.

Sec. 2261.257. CONTRACT DATABASE. (a) Each state agency that becomes a participant in the centralized accounting and payroll systems as authorized by Sections 2101.035 and 2101.036 shall use the system to identify and record each contract entered into by the agency as specified by the rules, policies, or procedures developed by the comptroller.

(b) The comptroller shall provide as necessary information and state agency contract data contained in the centralized accounting and payroll systems to other state agencies with oversight duties, including the Legislative Budget Board, the state auditor's office, and the Department of Information Resources.

SECTION 19. Section 2262.053(d), Government Code, is amended to read as follows:

(d) The comptroller shall administer training under this section and may assess a fee for the training in an amount sufficient to recover the comptroller's costs under this section.

SECTION 20. Section 2262.0535, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The comptroller may assess a fee for the training provided under this section in an amount sufficient to recover the comptroller's costs under this section.

SECTION 21. Section 2262.055, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

(a) The comptroller shall evaluate the vendor's performance based on information reported by state agencies under Section 2155.089 and criteria established by the comptroller.

(b) The comptroller by rule shall establish an evaluation process that:

(1) rates vendors on an A through F scale, with A being the highest grade;

and

(2) allows vendors who receive a grade lower than a C [~~an unfavorable performance review~~] to protest any classification given by the comptroller.

(d) A state agency shall use the vendor performance tracking system to determine whether to award a contract to a vendor reviewed in the tracking system. The comptroller by rule shall establish the manner in which the rating scale established under Subsection (b) affects a vendor's eligibility for state contracts and the grades on the scale that disqualify a vendor from state contracting.

(e) The comptroller shall make the vendor performance tracking system accessible to the public on the comptroller's Internet website.

SECTION 22. Section 51.9335(d), Education Code, is amended to read as follows:

(d) Subject to Section 51.9337, Subtitle D, Title 10, Government Code, and Subchapter B, Chapter 2254, Government Code, do not apply to the acquisition of goods and services under this section, except that an institution of higher education must comply with any provision of those laws, or a rule adopted under a provision of those laws, relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities. An institution of higher education may, but is not required to, acquire goods or services as provided by Subtitle D, Title 10, Government Code.

SECTION 23. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9337 to read as follows:

Sec. 51.9337. PURCHASING AUTHORITY CONDITIONAL; REQUIRED STANDARDS. (a) An institution of higher education may not exercise the acquisition authority granted by Section 51.9335 or 73.115 unless the institution complies with this section. An institution that is determined under Subsection (j) to not be in compliance with this section is subject to the laws governing acquisition of goods and services by state agencies, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code.

(b) The board of regents of an institution of higher education by rule shall establish for each institution under the management and control of the board:

(1) a code of ethics for the institution's officers and employees, including provisions governing officers and employees authorized to execute contracts for the institution or to exercise discretion in awarding contracts, subject to Subsection (c);

(2) policies for the internal investigation of suspected defalcation, misappropriation, and other fiscal irregularities and an institutional or systemwide compliance program designed to promote ethical behavior and ensure compliance with all applicable policies, laws, and rules governing higher education, including research and health care to the extent applicable;

(3) a contract management handbook that provides consistent contracting policies and practices and contract review procedures, including a risk analysis procedure, subject to Subsection (d);

(4) contracting delegation guidelines, subject to Subsections (e) and (f);

(5) training for officers and employees authorized to execute contracts for the institution or to exercise discretion in awarding contracts, including training in ethics, selection of appropriate procurement methods, and information resources purchasing technologies; and

(6) internal audit protocols, subject to Subsection (g).

(c) The code of ethics governing an institution of higher education must include:

(1) general standards of conduct and a statement that each officer or employee is expected to obey all federal, state, and local laws and is subject to disciplinary action for a violation of those laws;

(2) policies governing conflicts of interest, conflicts of commitment, and outside activities, ensuring that the primary responsibility of officers and employees is to accomplish the duties and responsibilities assigned to that position;

(3) a conflict of interest policy that prohibits employees from having a direct or indirect financial or other interest, engaging in a business transaction or professional activity, or incurring any obligation that is in substantial conflict with the proper discharge of the employee's duties related to the public interest;

(4) a conflict of commitment policy that prohibits an employee's activities outside the institution from interfering with the employee's duties and responsibilities to the institution;

(5) a policy governing an officer's or employee's outside activities, including compensated employment and board service, that clearly delineates the nature and amount of permissible outside activities and that includes processes for disclosing the outside activities and for obtaining and documenting institutional approval to perform the activities;

(6) a policy that prohibits an officer or employee from acting as an agent for another person in the negotiation of the terms of an agreement relating to the provision of money, services, or property to the institution;

(7) a policy governing the use of institutional resources; and

(8) a policy providing for the regular training of officers and employees on the policies described by this subsection.

(d) An institution of higher education shall establish contract review procedures and a contract review checklist that must be reviewed and approved by the institution's legal counsel before implementation. The review procedures and checklist must include:

(1) a description of each step of the procedure that an institution must use to evaluate and process contracts;

(2) a checklist that describes each process that must be completed before contract execution; and

(3) a value threshold that initiates the required review by the institution's legal counsel unless the contract is a standard contract previously approved by the counsel.

(e) An institution of higher education's policies governing contracting authority must clearly specify the types and values of contracts that must be approved by the board of regents and the types and values of contracts for which contracting authority is delegated by the board to the chief executive officer and by the chief executive officer to other officers and employees of the institution. An officer or employee may not execute a document for the board unless the officer or employee has authority to act for the board and the authority is exercised in compliance with applicable conditions and restrictions.

(f) An institution of higher education may not enter into a contract with a value of more than \$1 million, including any amendment, extension, or renewal of the contract that increases the value of the original contract to more than \$1 million, unless the institution's board of regents approves the contract, expressly delegates authority to exceed that amount, or expressly adopts an exception for that contract. The board must approve any amendment, extension, or renewal of a contract with a value that exceeds 25 percent of the value of the original contract approved by the board unless the authority to exceed the approved amount is expressly delegated by the board or an exception is expressly adopted by the board for that contract.

(g) The board of regents of an institution of higher education shall adopt standards for internal audits conducted by the institution to provide a systematic, disciplined approach to evaluate and improve the effectiveness of the institution's risk management, control, and governance processes related to contracts and to require risk-based testing of contract administration. The internal auditor must have full and unrestricted access to all institutional property, personnel, and records. An internal auditor must report directly to the board of regents in accordance with Chapter 2102, Government Code.

(h) The chief auditor of an institution of higher education shall annually assess whether the institution has adopted the rules and policies required by this section and shall submit a report of findings to the state auditor. In auditing the purchase of goods and services by the institution, the state auditor shall determine whether an institution has adopted the required rules and policies.

(i) If the state auditor determines that an institution of higher education has failed to adopt the required rules and policies, the auditor shall report that failure to the legislature and to the institution's board of regents and shall, in consultation with the institution, adopt a remediation plan to bring the institution into compliance. If the institution fails to comply within the time established by the state auditor, the auditor shall find the institution to be in noncompliance and report that finding to the legislature and comptroller.

(j) In accordance with a schedule adopted by the state auditor in consultation with the comptroller, the authority of an institution of higher education to acquire goods and services as provided by Section 51.9335 or 73.115 is suspended if the institution fails to comply with the remediation plan under Subsection (i) within the time established by the state auditor. As a result of the suspension, the laws, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code, governing acquisition of goods and services by state agencies from which the institution is otherwise exempt, shall apply to the institution's acquisition of goods and services.

SECTION 24. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.954 to read as follows:

Sec. 51.954. DISCLOSURE OF SPONSORS OF CONTRACTED RESEARCH IN PUBLIC COMMUNICATIONS. (a) In any public communication the content of which is based on the results of sponsored research, a faculty member or other employee or appointee of an institution of higher education who conducted or participated in conducting the research shall conspicuously disclose the identity of each sponsor of the research.

(b) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003.

(2) "Public communication" means oral or written communication intended for public consumption or distribution, including:

(A) testimony in a public administrative, legislative, regulatory, or judicial proceeding;

(B) printed matter including a magazine, journal, newsletter, newspaper, pamphlet, or report; or

(C) posting of information on a website or similar Internet host for information.

(3) "Sponsor" means an entity that contracts for or provides money or materials for research.

(4) "Sponsored research" means research:

(A) that is conducted under a contract with, or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the institution conducting the research; and

(B) in which payments received or the value of materials received under that contract or grant, or under a combination of more than one such contract or grant, constitutes at least 50 percent of the cost of conducting the research.

SECTION 25. Sections 73.115(e) and (f), Education Code, are amended to read as follows:

(e) To the extent of any conflict, this section prevails over any other law relating to the purchasing of goods and services other than Section 51.9337 and ~~[except]~~ a law relating to contracting with historically underutilized businesses.

(f) Except as otherwise provided by this section and Section 51.9337, Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code, do not apply to purchases of goods and services made under this section.

SECTION 26. Section 2155.502(d), Government Code, is repealed.

SECTION 27. Section 572.069, Government Code, as added by this Act, applies only to a state officer or employee whose service or employment with a state agency ceases on or after the effective date of this Act.

SECTION 28. As soon as is practicable after the effective date of this Act, the comptroller of public accounts, and each affected state agency as necessary, shall adopt the rules, processes, and procedures and take the actions necessary to implement the changes in law made by this Act.

SECTION 29. Section 2262.055(d), Government Code, as added by this Act, applies only in relation to a contract for which the request for bids or proposals or other applicable expression of interest is made public on or after October 1, 2015.

SECTION 30. The changes in law made by this Act apply only to a contract entered into on or after the effective date of this Act. A contract entered into before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 31. This Act takes effect September 1, 2015.

The Conference Committee Report on **SB 20** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 207

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas

May 28, 2015

Honorable Dan Patrick
President of the Senate
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 207** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HINOJOSA
NELSON
BIRDWELL
CAMPBELL
SCHWERTNER
On the part of the Senate

L. GONZALES
BURKETT
DUTTON
KUEMPEL
PRICE
On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to the authority and duties of the office of inspector general of the Health and Human Services Commission.

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

SECTION 1. Section 531.1011(4), Government Code, is amended to read as follows:

(4) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or some other person~~[, including any act that constitutes fraud under applicable federal or state law]~~. The term does not include unintentional technical, clerical, or administrative errors.

SECTION 2. Section 531.102, Government Code, is amended by amending Subsections (g) and (k), amending Subsection (f) as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subsections (a-2), (a-3), (a-4), (a-5), (a-6), (f-1), (p), (q), (r), (s), (t), (u), (v), and (w) to read as follows:

(a-2) The executive commissioner shall work in consultation with the office whenever the executive commissioner is required by law to adopt a rule or policy necessary to implement a power or duty of the office, including a rule necessary to carry out a responsibility of the office under Subsection (a).

(a-3) The executive commissioner is responsible for performing all administrative support services functions necessary to operate the office in the same manner that the executive commissioner is responsible for providing administrative support services functions for the health and human services system, including functions of the office related to the following:

- (1) procurement processes;
- (2) contracting policies;
- (3) information technology services;
- (4) legal services;
- (5) budgeting; and
- (6) personnel and employment policies.

(a-4) The commission's internal audit division shall regularly audit the office as part of the commission's internal audit program and shall include the office in the commission's risk assessments.

(a-5) The office shall closely coordinate with the executive commissioner and the relevant staff of health and human services system programs that the office oversees in performing functions relating to the prevention of fraud, waste, and abuse in the delivery of health and human services and the enforcement of state law relating to the provision of those services, including audits, utilization reviews, provider education, and data analysis.

(a-6) The office shall conduct investigations independent of the executive commissioner and the commission but shall rely on the coordination required by Subsection (a-5) to ensure that the office has a thorough understanding of the health and human services system for purposes of knowledgeable and effectively performing the office's duties under this section and any other law.

(f)(1) If the commission receives a complaint or allegation of Medicaid fraud or abuse from any source, the office must conduct a preliminary investigation as provided by Section 531.118(c) to determine whether there is a sufficient basis to warrant a full investigation. A preliminary investigation must begin not later than the 30th day, and be completed not later than the 45th day, after the date the commission receives a complaint or allegation or has reason to believe that fraud or abuse has occurred. ~~[A preliminary investigation shall be completed not later than the 90th day after it began.]~~

(2) If the findings of a preliminary investigation give the office reason to believe that an incident of fraud or abuse involving possible criminal conduct has occurred in Medicaid, the office must take the following action, as appropriate, not later than the 30th day after the completion of the preliminary investigation:

(A) if a provider is suspected of fraud or abuse involving criminal conduct, the office must refer the case to the state's Medicaid fraud control unit, provided that the criminal referral does not preclude the office from continuing its investigation of the provider, which investigation may lead to the imposition of appropriate administrative or civil sanctions; or

(B) if there is reason to believe that a recipient has defrauded Medicaid, the office may conduct a full investigation of the suspected fraud, subject to Section 531.118(c).

(f-1) The office shall complete a full investigation of a complaint or allegation of Medicaid fraud or abuse against a provider not later than the 180th day after the date the full investigation begins unless the office determines that more time is needed to complete the investigation. Except as otherwise provided by this subsection, if the office determines that more time is needed to complete the investigation, the office shall provide notice to the provider who is the subject of the investigation stating that the length of the investigation will exceed 180 days and specifying the reasons why the office was unable to complete the investigation within the 180-day period. The office is not required to provide notice to the provider under this subsection if the office determines that providing notice would jeopardize the investigation.

(g)(1) Whenever the office learns or has reason to suspect that a provider's records are being withheld, concealed, destroyed, fabricated, or in any way falsified, the office shall immediately refer the case to the state's Medicaid fraud control unit. However, such criminal referral does not preclude the office from continuing its investigation of the provider, which investigation may lead to the imposition of appropriate administrative or civil sanctions.

(2) As ~~[in addition to other instances]~~ authorized under state ~~and~~ ~~[or]~~ federal law, and except as provided by Subdivisions (8) and (9), the office shall impose without prior notice a payment hold on claims for reimbursement submitted by a provider only to compel production of records, when requested by the state's Medicaid fraud control unit, or on the determination that a credible allegation of fraud exists, subject to Subsections (l) and (m), as applicable. The payment hold is a serious enforcement tool that the office imposes to mitigate ongoing financial risk to the state. A payment hold imposed under this subdivision takes effect immediately. The office must notify the provider of the payment hold in accordance with 42 C.F.R. Section 455.23(b) and, except as provided by that regulation, not later than the fifth day after the date the office imposes the payment hold. In addition to the requirements of 42 C.F.R. Section 455.23(b), the notice of payment hold provided under this subdivision must also include:

(A) the specific basis for the hold, including identification of the claims supporting the allegation at that point in the investigation, ~~[and]~~ a representative sample of any documents that form the basis for the hold, and a detailed summary of the office's evidence relating to the allegation; ~~[and]~~

(B) a description of administrative and judicial due process rights and remedies, including the provider's option ~~[right]~~ to seek informal resolution, the provider's right to seek a formal administrative appeal hearing, or that the provider may seek both; and

(C) a detailed timeline for the provider to pursue the rights and remedies described in Paragraph (B).

(3) On timely written request by a provider subject to a payment hold under Subdivision (2), other than a hold requested by the state's Medicaid fraud control unit, the office shall file a request with the State Office of Administrative Hearings for an expedited administrative hearing regarding the hold not later than the third day after the date the office receives the provider's request. The provider must request an expedited administrative hearing under this subdivision not later than the 10th [30th] day after the date the provider receives notice from the office under Subdivision (2). The State Office of Administrative Hearings shall hold the expedited administrative hearing not later than the 45th day after the date the State Office of Administrative Hearings receives the request for the hearing. In a hearing held under this subdivision [Unless otherwise determined by the administrative law judge for good cause at an expedited administrative hearing, the state and the provider shall each be responsible for]:

(A) the provider and the office are each limited to four hours of testimony, excluding time for responding to questions from the administrative law judge [one half of the costs charged by the State Office of Administrative Hearings];

(B) the provider and the office are each entitled to two continuances under reasonable circumstances [one half of the costs for transcribing the hearing]; and

(C) the office is required to show probable cause that the credible allegation of fraud that is the basis of the payment hold has an indicia of reliability and that continuing to pay the provider presents an ongoing significant financial risk to the state and a threat to the integrity of Medicaid [the party's own costs related to the hearing, including the costs associated with preparation for the hearing, discovery, depositions, and subpoenas, service of process and witness expenses, travel expenses, and investigation expenses; and

[D] all other costs associated with the hearing that are incurred by the party, including attorney's fees].

(4) The office is responsible for the costs of a hearing held under Subdivision (3), but a provider is responsible for the provider's own costs incurred in preparing for the hearing [executive commissioner and the State Office of Administrative Hearings shall jointly adopt rules that require a provider, before an expedited administrative hearing, to advance security for the costs for which the provider is responsible under that subdivision].

(5) In a hearing held under Subdivision (3), the administrative law judge shall decide if the payment hold should continue but may not adjust the amount or percent of the payment hold. Notwithstanding any other law, including Section 2001.058(e), the decision of the administrative law judge is final and may not be appealed [Following an expedited administrative hearing under Subdivision (3), a provider subject to a payment hold, other than a hold requested by the state's Medicaid fraud control unit, may appeal a final administrative order by filing a petition for judicial review in a district court in Travis County].

(6) The executive commissioner, in consultation with the office, shall adopt rules that allow a provider subject to a payment hold under Subdivision (2), other than a hold requested by the state's Medicaid fraud control unit, to seek an informal resolution of the issues identified by the office in the notice provided under that subdivision. A provider must request an initial informal resolution meeting under this subdivision not later than the deadline prescribed by Subdivision (3) for requesting an expedited administrative hearing. On receipt of a timely request, the office shall decide whether to grant the provider's request for an initial informal resolution meeting, and if the office decides to grant the request, the office shall schedule the ~~[an]~~ initial informal resolution meeting ~~[not later than the 60th day after the date the office receives the request, but the office shall schedule the meeting on a later date, as determined by the office, if requested by the provider]~~. The office shall give notice to the provider of the time and place of the initial informal resolution meeting ~~[not later than the 30th day before the date the meeting is to be held]~~. A provider may request a second informal resolution meeting ~~[not later than the 20th day]~~ after the date of the initial informal resolution meeting. On receipt of a timely request, the office shall decide whether to grant the provider's request for a second informal resolution meeting, and if the office decides to grant the request, the office shall schedule the ~~[a]~~ second informal resolution meeting ~~[not later than the 45th day after the date the office receives the request, but the office shall schedule the meeting on a later date, as determined by the office, if requested by the provider]~~. The office shall give notice to the provider of the time and place of the second informal resolution meeting ~~[not later than the 20th day before the date the meeting is to be held]~~. A provider must have an opportunity to provide additional information before the second informal resolution meeting for consideration by the office. A provider's decision to seek an informal resolution under this subdivision does not extend the time by which the provider must request an expedited administrative hearing under Subdivision (3). The informal resolution process shall run concurrently with the administrative hearing process, and the informal resolution process shall be discontinued once the State Office of Administrative Hearings issues a final determination on the payment hold. [However, a hearing initiated under Subdivision (3) shall be stayed until the informal resolution process is completed.]

(7) The office shall, in consultation with the state's Medicaid fraud control unit, establish guidelines under which ~~[payment holds or]~~ program exclusions:

- (A) may permissively be imposed on a provider; or
- (B) shall automatically be imposed on a provider.

(7-a) The office shall, in consultation with the state's Medicaid fraud control unit, establish guidelines regarding the imposition of payment holds authorized under Subdivision (2).

(8) In accordance with 42 C.F.R. Sections 455.23(e) and (f), on the determination that a credible allegation of fraud exists, the office may find that good cause exists to not impose a payment hold, to not continue a payment hold, to impose a payment hold only in part, or to convert a payment hold imposed in whole to one imposed only in part, if any of the following are applicable:

(A) law enforcement officials have specifically requested that a payment hold not be imposed because a payment hold would compromise or jeopardize an investigation;

(B) available remedies implemented by the state other than a payment hold would more effectively or quickly protect Medicaid funds;

(C) the office determines, based on the submission of written evidence by the provider who is the subject of the payment hold, that the payment hold should be removed;

(D) Medicaid recipients' access to items or services would be jeopardized by a full or partial payment hold because the provider who is the subject of the payment hold:

(i) is the sole community physician or the sole source of essential specialized services in a community; or

(ii) serves a large number of Medicaid recipients within a designated medically underserved area;

(E) the attorney general declines to certify that a matter continues to be under investigation; or

(F) the office determines that a full or partial payment hold is not in the best interests of Medicaid.

(9) The office may not impose a payment hold on claims for reimbursement submitted by a provider for medically necessary services for which the provider has obtained prior authorization from the commission or a contractor of the commission unless the office has evidence that the provider has materially misrepresented documentation relating to those services.

(k) A final report on an audit or investigation is subject to required disclosure under Chapter 552. All information and materials compiled during the audit or investigation remain confidential and not subject to required disclosure in accordance with Section 531.1021(g). A confidential draft report on an audit or investigation that concerns the death of a child may be shared with the Department of Family and Protective Services. A draft report that is shared with the Department of Family and Protective Services remains confidential and is not subject to disclosure under Chapter 552.

(p) The executive commissioner, in consultation with the office, shall adopt rules establishing criteria:

(1) for opening a case;

(2) for prioritizing cases for the efficient management of the office's workload, including rules that direct the office to prioritize:

(A) provider cases according to the highest potential for recovery or risk to the state as indicated through the provider's volume of billings, the provider's history of noncompliance with the law, and identified fraud trends;

(B) recipient cases according to the highest potential for recovery and federal timeliness requirements; and

(C) internal affairs investigations according to the seriousness of the threat to recipient safety and the risk to program integrity in terms of the amount or scope of fraud, waste, and abuse posed by the allegation that is the subject of the investigation; and

(3) to guide field investigators in closing a case that is not worth pursuing through a full investigation.

(q) The executive commissioner, in consultation with the office, shall adopt rules establishing criteria for determining enforcement and punitive actions with regard to a provider who has violated state law, program rules, or the provider's Medicaid provider agreement that include:

(1) direction for categorizing provider violations according to the nature of the violation and for scaling resulting enforcement actions, taking into consideration:

(A) the seriousness of the violation;

(B) the prevalence of errors by the provider;

(C) the financial or other harm to the state or recipients resulting or potentially resulting from those errors; and

(D) mitigating factors the office determines appropriate; and

(2) a specific list of potential penalties, including the amount of the penalties, for fraud and other Medicaid violations.

(r) The office shall review the office's investigative process, including the office's use of sampling and extrapolation to audit provider records. The review shall be performed by staff who are not directly involved in investigations conducted by the office.

(s) The office shall arrange for the Association of Inspectors General or a similar third party to conduct a peer review of the office's sampling and extrapolation techniques. Based on the review and generally accepted practices among other offices of inspectors general, the executive commissioner, in consultation with the office, shall by rule adopt sampling and extrapolation standards to be used by the office in conducting audits.

(t) At each quarterly meeting of any advisory council responsible for advising the executive commissioner on the operation of the commission, the inspector general shall submit a report to the executive commissioner, the governor, and the legislature on:

(1) the office's activities;

(2) the office's performance with respect to performance measures established by the executive commissioner for the office;

(3) fraud trends identified by the office; and

(4) any recommendations for changes in policy to prevent or address fraud, waste, and abuse in the delivery of health and human services in this state.

(u) The office shall publish each report required under Subsection (t) on the office's Internet website.

(v) In accordance with Section 533.015(b), the office shall consult with the executive commissioner regarding the adoption of rules defining the office's role in and jurisdiction over, and the frequency of, audits of managed care organizations participating in Medicaid that are conducted by the office and the commission.

(w) The office shall coordinate all audit and oversight activities relating to providers, including the development of audit plans, risk assessments, and findings, with the commission to minimize the duplication of activities. In coordinating activities under this subsection, the office shall:

(1) on an annual basis, seek input from the commission and consider previous audits and on-site visits made by the commission for purposes of determining whether to audit a managed care organization participating in Medicaid; and

(2) request the results of any informal audit or on-site visit performed by the commission that could inform the office's risk assessment when determining whether to conduct, or the scope of, an audit of a managed care organization participating in Medicaid.

SECTION 3. Section 531.1021(a), Government Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The office of inspector general may ~~issue [request that the executive commissioner or the executive commissioner's designee approve the issuance by the office of]~~ a subpoena in connection with an investigation conducted by the office. ~~A [If the request is approved, the office may issue a]~~ subpoena may be issued under this section to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

SECTION 4. Section 531.1031(a), Government Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) In this section and Sections 531.1032, 531.1033, and 531.1034:

(1) "Health care professional" means a person issued a license~~[-registration, or certification]~~ to engage in a health care profession.

(1-a) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a licensing authority; and

(B) must be obtained before a person may practice or engage in a particular business, occupation, or profession.

(1-b) "Licensing authority" means a department, commission, board, office, or other agency of the state that issues a license.

(1-c) "Office" means the commission's office of inspector general unless a different meaning is plainly required by the context in which the term appears.

(2) "Participating agency" means:

(A) the Medicaid fraud enforcement divisions of the office of the attorney general;

(B) each licensing authority ~~[board or agency]~~ with authority to issue a license ~~to[-register, regulate, or certify]~~ a health care professional or managed care organization that may participate in Medicaid; and

(C) the ~~[commission's]~~ office ~~[of inspector general]~~.

(3) "Provider" has the meaning assigned by Section 531.1011(10)(A).

SECTION 5. Subchapter C, Chapter 531, Government Code, is amended by adding Sections 531.1032, 531.1033, and 531.1034 to read as follows:

Sec. 531.1032. OFFICE OF INSPECTOR GENERAL: CRIMINAL HISTORY RECORD INFORMATION CHECK. (a) The office and each licensing authority that requires the submission of fingerprints for the purpose of conducting a criminal history record information check of a health care professional shall enter into a

memorandum of understanding to ensure that only persons who are licensed and in good standing as health care professionals participate as providers in Medicaid. The memorandum under this section may be combined with a memorandum authorized under Section 531.1031(c-1) and must include a process by which:

(1) the office may confirm with a licensing authority that a health care professional is licensed and in good standing for purposes of determining eligibility to participate in Medicaid; and

(2) the licensing authority immediately notifies the office if:

(A) a provider's license has been revoked or suspended; or

(B) the licensing authority has taken disciplinary action against a provider.

(b) The office may not, for purposes of determining a health care professional's eligibility to participate in Medicaid as a provider, conduct a criminal history record information check of a health care professional who the office has confirmed under Subsection (a) is licensed and in good standing. This subsection does not prohibit the office from performing a criminal history record information check of a provider that is required or appropriate for other reasons, including for conducting an investigation of fraud, waste, or abuse.

(c) For purposes of determining eligibility to participate in Medicaid and subject to Subsection (d), the office, after seeking public input, shall establish and the executive commissioner by rule shall adopt guidelines for the evaluation of criminal history record information of providers and potential providers. The guidelines must outline conduct, by provider type, that may be contained in criminal history record information that will result in exclusion of a person from Medicaid as a provider, taking into consideration:

(1) the extent to which the underlying conduct relates to the services provided under Medicaid;

(2) the degree to which the person would interact with Medicaid recipients as a provider; and

(3) any previous evidence that the person engaged in fraud, waste, or abuse under Medicaid.

(d) The guidelines adopted under Subsection (c) may not impose stricter standards for the eligibility of a person to participate in Medicaid than a licensing authority described by Subsection (a) requires for the person to engage in a health care profession without restriction in this state.

(e) The office and the commission shall use the guidelines adopted under Subsection (c) to determine whether a provider participating in Medicaid continues to be eligible to participate in Medicaid as a provider.

(f) The provider enrollment contractor, if applicable, and a managed care organization participating in Medicaid shall defer to the office regarding whether a person's criminal history record information precludes the person from participating in Medicaid as a provider.

Sec. 531.1033. MONITORING OF CERTAIN FEDERAL DATABASES. The office shall routinely check appropriate federal databases, including databases referenced in 42 C.F.R. Section 455.436, to ensure that a person who is excluded from participating in Medicaid or in the Medicare program by the federal government is not participating as a provider in Medicaid.

Sec. 531.1034. TIME TO DETERMINE PROVIDER ELIGIBILITY; PERFORMANCE METRICS. (a) Not later than the 10th day after the date the office receives the complete application of a health care professional seeking to participate in Medicaid, the office shall inform the commission or the health care professional, as appropriate, of the office's determination regarding whether the health care professional should be denied participation in Medicaid based on:

(1) information concerning the licensing status of the health care professional obtained as described by Section 531.1032(a);

(2) information contained in the criminal history record information check that is evaluated in accordance with guidelines adopted under Section 531.1032(c);

(3) a review of federal databases under Section 531.1033;

(4) the pendency of an open investigation by the office; or

(5) any other reason the office determines appropriate.

(b) Completion of an on-site visit of a health care professional during the period prescribed by Subsection (a) is not required.

(c) The office shall develop performance metrics to measure the length of time for conducting a determination described by Subsection (a) with respect to applications that are complete when submitted and all other applications.

SECTION 6. Section 531.113, Government Code, is amended by adding Subsection (d-1) and amending Subsection (e) as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to read as follows:

(d-1) The commission's office of inspector general, in consultation with the commission, shall:

(1) investigate, including by means of regular audits, possible fraud, waste, and abuse by managed care organizations subject to this section;

(2) establish requirements for the provision of training to and regular oversight of special investigative units established by managed care organizations under Subsection (a)(1) and entities with which managed care organizations contract under Subsection (a)(2);

(3) establish requirements for approving plans to prevent and reduce fraud and abuse adopted by managed care organizations under Subsection (b);

(4) evaluate statewide fraud, waste, and abuse trends in Medicaid and communicate those trends to special investigative units and contracted entities to determine the prevalence of those trends;

(5) assist managed care organizations in discovering or investigating fraud, waste, and abuse, as needed; and

(6) provide ongoing, regular training to appropriate commission and office staff concerning fraud, waste, and abuse in a managed care setting, including training relating to fraud, waste, and abuse by service providers and recipients.

(e) The executive commissioner, in consultation with the office, shall adopt rules as necessary to accomplish the purposes of this section, including rules defining the investigative role of the commission's office of inspector general with respect to the investigative role of special investigative units established by managed care organizations under Subsection (a)(1) and entities with which managed care organizations contract under Subsection (a)(2). The rules adopted under this section must specify the office's role in:

(1) reviewing the findings of special investigative units and contracted entities;

(2) investigating cases in which the overpayment amount sought to be recovered exceeds \$100,000; and

(3) investigating providers who are enrolled in more than one managed care organization.

SECTION 7. Section 531.118(b), Government Code, is amended to read as follows:

(b) If the commission receives an allegation of fraud or abuse against a provider from any source, the commission's office of inspector general shall conduct a preliminary investigation of the allegation to determine whether there is a sufficient basis to warrant a full investigation. A preliminary investigation must begin not later than the 30th day, and be completed not later than the 45th day, after the date the commission receives or identifies an allegation of fraud or abuse.

SECTION 8. Section 531.120, Government Code, is amended to read as follows:

Sec. 531.120. NOTICE AND INFORMAL RESOLUTION OF PROPOSED RECOUPMENT OF OVERPAYMENT OR DEBT. (a) The commission or the commission's office of inspector general shall provide a provider with written notice of any proposed recoupment of an overpayment or debt and any damages or penalties relating to a proposed recoupment of an overpayment or debt arising out of a fraud or abuse investigation. The notice must include:

(1) the specific basis for the overpayment or debt;

(2) a description of facts and supporting evidence;

(3) a representative sample of any documents that form the basis for the overpayment or debt;

(4) the extrapolation methodology;

(4-a) information relating to the extrapolation methodology used as part of the investigation and the methods used to determine the overpayment or debt in sufficient detail so that the extrapolation results may be demonstrated to be statistically valid and are fully reproducible;

(5) the calculation of the overpayment or debt amount;

(6) the amount of damages and penalties, if applicable; and

(7) a description of administrative and judicial due process remedies, including the provider's option [right] to seek informal resolution, the provider's right to seek a formal administrative appeal hearing, or that the provider may seek both.

(b) A provider may ~~[must]~~ request an ~~[initial]~~ informal resolution meeting under this section, and on [not later than the 30th day after the date the provider receives notice under Subsection (a). On] receipt of the [a timely] request, the office shall

~~schedule the [an initial] informal resolution meeting [not later than the 60th day after the date the office receives the request, but the office shall schedule the meeting on a later date, as determined by the office if requested by the provider]. The office shall give notice to the provider of the time and place of the [initial] informal resolution meeting [not later than the 30th day before the date the meeting is to be held]. The informal resolution process shall run concurrently with the administrative hearing process, and the administrative hearing process may not be delayed on account of the informal resolution process. [A provider may request a second informal resolution meeting not later than the 20th day after the date of the initial informal resolution meeting. On receipt of a timely request, the office shall schedule a second informal resolution meeting not later than the 45th day after the date the office receives the request, but the office shall schedule the meeting on a later date, as determined by the office if requested by the provider. The office shall give notice to the provider of the time and place of the second informal resolution meeting not later than the 20th day before the date the meeting is to be held. A provider must have an opportunity to provide additional information before the second informal resolution meeting for consideration by the office.]~~

SECTION 9. Sections 531.1201(a) and (b), Government Code, are amended to read as follows:

(a) A provider must request an appeal under this section not later than the ~~15th~~ 30th day after the date the provider is notified that the commission or the commission's office of inspector general will seek to recover an overpayment or debt from the provider. On receipt of a timely written request by a provider who is the subject of a recoupment of overpayment or recoupment of debt arising out of a fraud or abuse investigation, the office of inspector general shall file a docketing request with the State Office of Administrative Hearings or the Health and Human Services Commission appeals division, as requested by the provider, for an administrative hearing regarding the proposed recoupment amount and any associated damages or penalties. The office shall file the docketing request under this section not later than the 60th day after the date of the provider's request for an administrative hearing or not later than the 60th day after the completion of the informal resolution process, if applicable.

(b) The commission's office of inspector general is responsible for the costs of an administrative hearing held under Subsection (a), but a provider is responsible for the provider's own costs incurred in preparing for the hearing ~~[Unless otherwise determined by the administrative law judge for good cause, at any administrative hearing under this section before the State Office of Administrative Hearings, the state and the provider shall each be responsible for:~~

~~(1) one half of the costs charged by the State Office of Administrative Hearings;~~

~~(2) one half of the costs for transcribing the hearing;~~

~~(3) the party's own costs related to the hearing, including the costs associated with preparation for the hearing, discovery, depositions, and subpoenas, service of process and witness expenses, travel expenses, and investigation expenses; and~~

~~[(4) all other costs associated with the hearing that are incurred by the party, including attorney's fees].~~

SECTION 10. Section 531.1202, Government Code, is amended to read as follows:

Sec. 531.1202. RECORD AND CONFIDENTIALITY OF INFORMAL RESOLUTION MEETINGS. (a) On the written request of the provider, the [The] commission shall, at no expense to the provider who requested the meeting, provide for an informal resolution meeting held under Section 531.102(g)(6) or 531.120(b) to be recorded. The recording of an informal resolution meeting shall be made available to the provider who requested the meeting. The commission may not record an informal resolution meeting unless the commission receives a written request from a provider under this subsection.

(b) Notwithstanding Section 531.1021(g) and except as provided by this section, an informal resolution meeting held under Section 531.102(g)(6) or 531.120(b) is confidential, and any information or materials obtained by the commission's office of inspector general, including the office's employees or the office's agents, during or in connection with an informal resolution meeting, including a recording made under Subsection (a), are privileged and confidential and not subject to disclosure under Chapter 552 or any other means of legal compulsion for release, including disclosure, discovery, or subpoena.

SECTION 11. Subchapter C, Chapter 531, Government Code, is amended by adding Sections 531.1023, 531.1024, 531.1025, and 531.1203 to read as follows:

Sec. 531.1023. COMPLIANCE WITH FEDERAL CODING GUIDELINES. The commission's office of inspector general, including office staff and any third party with which the office contracts to perform coding services, shall comply with federal coding guidelines, including guidelines for diagnosis-related group (DRG) validation and related audits.

Sec. 531.1024. HOSPITAL UTILIZATION REVIEWS AND AUDITS: PROVIDER EDUCATION PROCESS. The executive commissioner, in consultation with the office, shall by rule develop a process for the commission's office of inspector general, including office staff and any third party with which the office contracts to perform coding services, to communicate with and educate providers about the diagnosis-related group (DRG) validation criteria that the office uses in conducting hospital utilization reviews and audits.

Sec. 531.1025. PERFORMANCE AUDITS AND COORDINATION OF AUDIT ACTIVITIES. (a) Notwithstanding any other law, the commission's office of inspector general may conduct a performance audit of any program or project administered or agreement entered into by the commission or a health and human services agency, including an audit related to:

(1) contracting procedures of the commission or a health and human services agency; or

(2) the performance of the commission or a health and human services agency.

(b) In addition to the coordination required by Section 531.102(w), the office shall coordinate the office's other audit activities with those of the commission, including the development of audit plans, the performance of risk assessments, and

the reporting of findings, to minimize the duplication of audit activities. In coordinating audit activities with the commission under this subsection, the office shall:

(1) seek input from the commission and consider previous audits conducted by the commission for purposes of determining whether to conduct a performance audit; and

(2) request the results of an audit conducted by the commission if those results could inform the office's risk assessment when determining whether to conduct, or the scope of, a performance audit.

Sec. 531.1203. RIGHTS OF AND PROVISION OF INFORMATION TO PHARMACIES SUBJECT TO CERTAIN AUDITS. (a) A pharmacy has a right to request an informal hearing before the commission's appeals division to contest the findings of an audit conducted by the commission's office of inspector general or an entity that contracts with the federal government to audit Medicaid providers if the findings of the audit do not include findings that the pharmacy engaged in Medicaid fraud.

(b) In an informal hearing held under this section, staff of the commission's appeals division, assisted by staff responsible for the commission's vendor drug program who have expertise in the law governing pharmacies' participation in Medicaid, make the final decision on whether the findings of an audit are accurate. Staff of the commission's office of inspector general may not serve on the panel that makes the decision on the accuracy of an audit.

(c) In order to increase transparency, the commission's office of inspector general shall, if the office has access to the information, provide to pharmacies that are subject to audit by the office, or by an entity that contracts with the federal government to audit Medicaid providers, information relating to the extrapolation methodology used as part of the audit and the methods used to determine whether the pharmacy has been overpaid under Medicaid in sufficient detail so that the audit results may be demonstrated to be statistically valid and are fully reproducible.

SECTION 12. Section 533.015, Government Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 533.015. COORDINATION OF EXTERNAL OVERSIGHT ACTIVITIES. (a) To the extent possible, the commission shall coordinate all external oversight activities to minimize duplication of oversight of managed care plans under Medicaid and disruption of operations under those plans.

(b) The executive commissioner, after consulting with the commission's office of inspector general, shall by rule define the commission's and office's roles in and jurisdiction over, and frequency of, audits of managed care organizations participating in Medicaid that are conducted by the commission and the commission's office of inspector general.

(c) In accordance with Section 531.102(w), the commission shall share with the commission's office of inspector general, at the request of the office, the results of any informal audit or on-site visit that could inform that office's risk assessment when determining whether to conduct, or the scope of, an audit of a managed care organization participating in Medicaid.

SECTION 13. The following provisions are repealed:

(1) Section 531.1201(c), Government Code; and

(2) Section 32.0422(k), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015.

SECTION 14. Notwithstanding Section 531.004, Government Code, the Sunset Advisory Commission shall conduct a special-purpose review of the overall performance of the Health and Human Services Commission's office of inspector general. In conducting the review, the Sunset Advisory Commission shall particularly focus on the office's investigations and the effectiveness and efficiency of the office's processes, as part of the Sunset Advisory Commission's review of agencies for the 87th Legislature. The office is not abolished solely because the office is not explicitly continued following the review.

SECTION 15. Section 531.102, Government Code, as amended by this Act, applies only to a complaint or allegation of Medicaid fraud or abuse received by the Health and Human Services Commission or the commission's office of inspector general on or after the effective date of this Act. A complaint or allegation received before the effective date of this Act is governed by the law as it existed when the complaint or allegation was received, and the former law is continued in effect for that purpose.

SECTION 16. Not later than March 1, 2016, the executive commissioner of the Health and Human Services Commission, in consultation with the inspector general of the commission's office of inspector general, shall adopt rules necessary to implement the changes in law made by this Act to Section 531.102(g)(2), Government Code, regarding the circumstances in which a payment hold may be placed on claims for reimbursement submitted by a Medicaid provider.

SECTION 17. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission, in consultation with the inspector general of the commission's office of inspector general, shall adopt the rules establishing the process for communicating with and educating providers about diagnosis-related group (DRG) validation criteria under Section 531.1024, Government Code, as added by this Act.

SECTION 18. Not later than September 1, 2016, the executive commissioner of the Health and Human Services Commission shall adopt the guidelines required under Section 531.1032(c), Government Code, as added by this Act.

SECTION 19. Sections 531.120 and 531.1201, Government Code, as amended by this Act, apply only to a proposed recoupment of an overpayment or debt of which a provider is notified on or after the effective date of this Act. A proposed recoupment of an overpayment or debt that a provider was notified of before the effective date of this Act is governed by the law as it existed when the provider was notified, and the former law is continued in effect for that purpose.

SECTION 20. Not later than March 1, 2016, the executive commissioner of the Health and Human Services Commission in consultation with the inspector general of the office of inspector general shall adopt rules necessary to implement Section 531.1203, Government Code, as added by this Act.

SECTION 21. Not later than September 1, 2016, the executive commissioner of the Health and Human Services Commission shall adopt rules required by Section 533.015(b), Government Code, as added by this Act.

SECTION 22. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 23. This Act takes effect September 1, 2015.

The Conference Committee Report on **SB 207** was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SR 1026 by Menéndez, Recognizing St. Mary's University women's tennis team for winning the 2015 Heartland Conference championship.

SR 1027 by West, Recognizing Saint John Missionary Baptist Church on the occasion of its 139th anniversary.

SR 1029 by Nichols, Recognizing the Texas Hobo Cook-Off & Gypsy Jamboree.

SR 1030 by Garcia, Recognizing the honorees of the Harris County Democratic Party's inaugural Living Legends Brunch.

HCR 128 (Seliger), Honoring Shanna Peeples on her selection as National Teacher of the Year.

ADJOURNMENT **(Motion In Writing)**

Senator Whitmire submitted the following Motion In Writing:

I move that the Senate stand adjourned until 10 a.m., Friday, May 29th.

WHITMIRE

The Motion In Writing was read and prevailed without objection.

APPENDIX

BILLS AND RESOLUTIONS ENROLLED

May 27, 2015

SB 724, SB 881, SB 923, SB 932, SB 1025, SB 1049, SB 1070, SB 1135, SB 1408, SB 1496, SB 1517, SB 1760, SB 1880, SCR 9, SCR 22, SCR 40, SCR 41, SJR 52, SR 989, SR 1013, SR 1014, SR 1015, SR 1016, SR 1017, SR 1018, SR 1020,

SR 1021, SR 1022, SR 1023, SR 1025, SR 1028

SIGNED BY GOVERNOR

May 28, 2015

SB 31, SB 66, SB 97, SB 314, SB 373, SB 381, SB 425, SB 455, SB 461, SB 498, SB 584, SB 596, SB 627, SB 653, SB 671, SB 695, SB 805, SB 810, SB 812, SB 814, SB 832, SB 850, SB 909, SB 934, SB 935, SB 972, SB 1059, SB 1128, SB 1507, SB 1587, SB 1697, SB 1879, SB 1929, SB 2004, SCR 13, SCR 32

FILED WITHOUT SIGNATURE OF GOVERNOR

May 28, 2015

SB 570, SB 839, SB 2034

