

# SENATE JOURNAL

EIGHTY-SEVENTH LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**FORTY-SEVENTH DAY**

(Continued)

(Friday, May 28, 2021)

**AFTER RECESS**

The Senate met at 11:46 a.m. and was called to order by the President.

Senator Hughes offered the invocation as follows:

Heavenly Father, we come before You and we just thank You for who You are. When we consider that You created everything, everything seen, everything unseen, we know that You existed before anything else, You always have and You always will. And, Father, we thank You for what we've learned, what we know about You. We know that You are all powerful, that You can do anything, nothing is in Your way, You can accomplish everything. We also know that You are all wise, You know exactly what You're doing. You're not caught by surprise by anything. You know exactly what's happening. And, Father, we thank You that You are all loving. What You do is best, it's best for us, even when we don't understand. We thank You that we can trust You. And, Father, if we ever doubted Your love, we would just look at Calvary, where the Lord Jesus, Your Son, the creator, humbled Himself and there gave His life for us. The just for the unjust. We thank You for this resurrection, for His ascension into heaven and His work there at Your right hand. Father, all these things we're reminded You are for us in all these ways, in all these important ways, these things that really matter. So, Father, if You look back at the last few months together, and here the last few days, we just thank You. Each one here has a role, some serving on a staff level, some volunteers, many participants in the process, and even those elected. You've put each one of us here, so help us, Father, to finish strong, to follow through and honor You. We ask You to give us wisdom to know what to do, to give us courage to do what's right and give us humility, and to honor You and the way we do it. We pray in Jesus' name. Amen.

## **SENATE RESOLUTION 487**

Senator Paxton offered the following resolution:

**SR 487**, In memory of Carroll Homer Maxwell Jr.

The resolution was read.

On motion of Senator Paxton, **SR 487** was adopted by a rising vote of the Senate.

In honor of the memory of Carroll Homer Maxwell Jr., the text of the resolution is printed at the end of today's *Senate Journal*.

Senator Paxton, joined by Senator Hughes and the President, was recognized and introduced to the Senate the family of Carroll Homer Maxwell Jr. including Alice Cromwell, Karen Prejean, Cathleen Frederickson, and Nicholas Cromwell.

The Senate welcomed its guests and extended its sympathy.

#### **SENATE RESOLUTION 489**

Senator Taylor offered the following resolution:

**SR 489**, In memory of Kenton Dale Harris.

The resolution was read.

On motion of Senator West and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Taylor, **SR 489** was adopted by a rising vote of the Senate.

In honor of the memory of Kenton Dale Harris, the text of the resolution is printed at the end of today's *Senate Journal*.

Senator Taylor was recognized and introduced to the Senate the family of Kenton Dale Harris including Kay Harris and Kevin Harris.

The Senate welcomed its guests and extended its sympathy.

#### **REMARKS ORDERED PRINTED**

On motion of Senator Taylor and by unanimous consent, his remarks regarding **SR 489** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Thank you, Mr. President. Members, I rise today to recognize and honor the legacy and memory of a longtime and dear friend, Kenton Harris, in the Texas Senate here today. Family and friends, thousands of former students and athletes will forever treasure their memories of the man that we knew as Coach Harris. He died on March 9th of this year at the age of 88 with a long life well lived. He was born in Kingman, Kansas, grew up there, and was an impressive athlete on his own, played football, was named an all-state running back. Later, went on and played varsity football at Friends University in Wichita, Kansas. While there in college, he met his soon-to-be wife, Kay, who was a native of my hometown, Friendswood, Texas. Answering his nation's call to duty, Coach Harris served the U.S. Army with the 868th Field Artillery Battalion from 1956 to 1958, and then began his education career in Kansas but later moved to Friendswood, Texas, in 1971, where he began to make a great mark. The football teams back in those early '70s in Friendswood, they won a state championship. They were perennial playoff contenders, going deep in the playoffs almost every year. And he was the defensive coordinator for those teams. There was the year that we won the state championship, I think, I think we had like

20-some-odd points scored against us the whole year. He knew what he was doing on the football field, but he always also knew he, what he was doing in life. Coach Harris, he served as such a positive example and mentor to many of Friendswood High School students and athletes, including myself. He was vigilant with his integrity, compassion, and respect for others every day. Beyond his successes on the athletic field, he had many successes with his students, life-changing turnaround successes with his students. You know, we all understand the power of positive words from a teacher to a student, how it can affect someone's life. Coach Harris did that reliably every day, and it was meaningful and it was genuine. I can tell you, he was my shop teacher. I didn't play football, but beyond the athletic field, he was my shop teacher for a couple of years. And I loved taking shop, as woodworking and doing all that. But it didn't matter if you were working on a cutting board or some kind of a bedside table, he would come up and tell you, you do good work. It's such a positive affirmation that many students need and don't get all the time. Not surprisingly, he was a man of strong faith. He was a longtime member of the Friendswood Friends Church, where he was a Sunday school teacher, youth sponsor, and on the ministry and oversight committee. He also helped found and lead the Friendswood High School Fellowship of Christian Athletes for many, many years. He shared a loving relationship with his wife, Kay, who is still with us, spanning over six decades. In fact, he had two sons, Kevin and Kelly. And Kelly is with us here in the gallery. If you would, stand up, Kelly, Kelly Harris. Looks a lot like his dad, actually, which is, I'm so pleased that you're able to be here with us today. On the day that Coach Harris left this Earth and stepped into heaven, I can hear God greeting him with, you do good work my good and faithful servant. You have made a positive difference for so many of my children. With that, Mr. President, I move adoption of the resolution, Senate Resolution 489.

### **GUESTS PRESENTED**

Senator West was recognized and introduced to the Senate his 87th Legislature interns including Addison Coe, Prince S. Giadolor, Jason Castillo, Marissa Elder, William Jackson, Maguire Kilpatrick, Chelsea Laughrun, Tarshyana Hall, Shelby McNulty, May Lilly, Shu-Ching Tseng, and Tony Wen.

The Senate welcomed its guests.

**(Senator Springer in Chair)**

### **SENATE RESOLUTION 505**

Senator Birdwell offered the following resolution:

**SR 505**, Recognizing William David Lacy for his induction into the Texas Bankers Hall of Fame.

The resolution was read and was adopted without objection.

**GUEST PRESENTED**

Senator Birdwell was recognized and introduced to the Senate William David Lacy.

The Senate welcomed its guest.

**(President in Chair)****SENATE RESOLUTIONS**

Senator Perry offered the following resolution:

**SR 507**, In memory of Samuel Alexander Leonard.

The resolution was read.

Senator Perry offered the following resolution:

**SR 513**, In memory of Stephen Jones.

The resolution was read.

On motion of Senator Bettencourt and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolutions as signers thereof.

On motion of Senator Perry, **SR 507** and **SR 513** were adopted by a rising vote of the Senate.

In honor of the memory of Samuel Alexander Leonard and Stephen Jones, the text of the resolutions are printed at the end of today's *Senate Journal*.

**REMARKS ORDERED PRINTED**

On motion of Senator Perry and by unanimous consent, the remarks by Senator Perry and the President regarding **SR 507** and **SR 513** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Perry:** Thank you, Mr. President and Members. Tyrel, Kimber, Dakota, Grace, Katie, Magnolia, Morgan, and Rebekah are all now part of a perpetual bond created by unspeakable and unconscionable event when their dads suited up, went to work, put the badge and gun on, swore an oath to protect us, and didn't come home. They won't be there for the graduations, the weddings, and all the other things that we as dads enjoy or the anniversaries with their wives. And the heartbreak that it is and the senseless tragedy it's become in their life will always keep them connected. So, it's with great sadness that I want to recognize two men who lost their lives in the line of duty on May 10, 2021. Sergeant Stephen Jones and Deputy Samuel Leonard of Concho County Sheriff's Office. Sergeant Jones and Deputy Leonard responded to a call on the evening of May 10th that ended tragically when both men were shot and killed. It was a animal control call, if you can believe that. Sergeant Jones was born in San Angelo on July 9, 1986, son of Doug and Nola Jones. He grew up with four brothers, James, Mark, David, and Daniel and three sisters, Marie, Teresa, and Sarah. He graduated for a homeschool program in 2005, setting his sights on a career in law enforcement. He earned his basic peace officer certification from Concho Valley Council of Governments. Mr. Jones joined the force as a deputy with the Concho County Sheriff's Office. Well liked and widely admired in his community, he

impressed his fellow citizens with kindness, his cheerful demeanor, and his willing to lend a helping hand wherever it was needed and whenever it was needed. To his colleagues in the sheriff's office, he is like family. And after his untimely death, his department vowed to honor his legacy by retiring his badge and his unit number. Sergeant Jones shared a rewarding marriage with the love of his life, Rebekah Jones, whom he wed on May 28, 2005. Devoted father, he deeply cherished his five children, Tyrel, Kimber, Dakota, Grace, and Katie. In addition to spending time with his loved ones, he enjoyed being outdoors, and he took great pleasure in ranching, hunting, and shooting events. Deputy Samuel Leonard was born in Lubbock on July 26, 1994 to the parents of Randy and Letha Leonard. He grew up with three siblings, Zach, Jacob, and Tiane. He started attending First Baptist Church of Lamesa as a youth, and he earned a rank of Eagle Scout with the Boy Scouts of America. He graduated from Klondike High School in 2013 and attended Angelo State University. He's a member of Lamesa Fire and Rescue. Mr. Leonard began his law enforcement career with Concho County Sheriff's Department in June of 2019, and he transferred to the Dawson County Sheriff's Department in December of last year and then returned to Concho County in 2021. Deputy Leonard shared a rewarding marriage with his wife, Morgan Lea Leonard, whom he had wed on June 3, 2017, in San Angelo. This devoted family man treasured his time spent with his daughter, Magnolia Rae Leonard. He had a contagious laugh and a natural ability to put others at ease. Moreover, he was a member of the Milam Masonic Lodge No. 11 in Lamesa. I attended Deputy Leonard's funeral; I couldn't make Deputy Jones' or Sergeant Jones' funeral because of weather. And when you look into the eyes of the spouse sitting on the front pew of a Baptist church, her church, with a casket of her husband sitting in front of her, you just can't help feel the impact and recognize that the uncertainty and the chaos that now exist that was all within a blink of an eye implemented. It's a hard funeral, but a good service, and in that, I heard a pastor give the typical eulogies and other things and things that pastors do, but he talked a little bit about faith. These events challenge and test our faith and why we believe what we do. And you know, he was very straight up. I really enjoyed the service from perspective, but he said you have the right to angry. You have a right to be somewhat confused, but our faith as believers teaches us a lot of things to get through these things, and I just hope that through this resolution and other things to come, our memorial, as these kids start growing up that they recognize that they not alone in this endeavor, but you know, we live in a sinful world, evil surrounds, and I think that we get a, just a little glimpse. If you're a person of faith, you understand what tribulation looks like or what it will look like. But I think God gives us just a little bit of a glimpse, and we deal with it in this floor, of humanity without a conscience. And that's the only way that I can frame what went down that night where they took those gentlemen's lives, is someone could not have a conscience and done that. So, that's God's way, I think, of giving us gentle reminders that we better be ready for an eternity, and we have a greater commission on this Earth, is to make sure everyone has the opportunity to avoid the tribulation. Because that's what tribulation looks like, is when two deputies show up on a doorstep on an animal control, and to have someone that's able, with no conscience at all, be able to unmercifully slaughter somebody. That's humanity without a conscience. So, it wasn't God's fault that day. We chose a path early on in this

creation that put us into these events that day. But I think He gives us little glimpses of why we want to be on His team when it's all over. Six kids, two wives, parents, siblings, friends, and communities and the State of Texas, and for that matter, humanity are now bonded by a tragic event that should have never happened. But it happened and where we go from here is we love and we support those that are in this fraternity, unfortunately, going forward that have lost their loved ones in line of duty. As a state, we need to make sure that they know that we recognize and we will continue to memorialize them at every event we get to on a Memorial Day weekend. You know, we need to remember those that have lost their life protecting our freedoms. Both of these men embodied the highest ideal of the law enforcement profession with compassion, integrity, and honors that it demands. They're gone but their dedication and sacrifices will never be forgotten. Their end of watch, EOW, and for those that haven't attended a service of a fallen first responder, I hope you don't have to, but when the bagpipes come out and the "Amazing Grace," I just, I cannot sit through that without boohooing, bellowing, and I've heard that in this Chamber on some of our services we've done for those lost. But I would just ask today that as we adjourn, we adjourn in the memory of Sergeant Stephen Jones and Deputy Samuel Alexander. I think the families are watching today, and I hope that they can link back and time goes on and as those voids become bigger because people are not there. You know, it's always two, three, four weeks or six months out that we need to remind ourselves to go and take that extra effort as communities of families and friends to support those people because it's when it's quiet, it's when it's quiet that Morgan and Rebekah needs to be reminded that someone still cares. I pray a peace that no one can understand on this side of heaven for that group, but I know that it can come to fruition as communities and as just individuals. You know all people that are in similar situations for different reasons, and you think about making the call or dropping the line and you choose not to because you don't think it matters. I challenge every one of us that have those people that have been impacted some way like this to follow through, and I promise you it makes a difference. With that, Mr. President, I move to adopt.

**President:** Thank you, Senator Perry. It was a fine tribute to us. Since I was elected Lieutenant Governor in 2014, we have lost over 50 law enforcement members of our state. I believe it's 36 killed by gunfire. It's become the Wild West a little bit out there and a very dangerous job, it's always been dangerous. And I haven't been able to attend every funeral or every memorial service but more than I ever wanted to attend along with those who were killed at the church and at Santa Fe school and at Odessa and Walmart and through storms. I've seen a lot of death on this job, and when you look in the eyes of that wife and those children, I always see the rock of their faith holding them on. Maybe no matter where they were in their faith walk and it's remarkable thing to see, but it's a hard thing to see. And so, I know how you felt day, I felt that way many, many times more than I ever thought or could imagine. So, our condolences and our heart and our prayers go out to those families, and you're right, it's important for them to know it's not just today because when the funerals are over and the ceremonies are over, they have to go through life. I'll never forget going to Dallas the day after the five officers were killed and going to the home of one of the families the next day and the daughter of one of the officers shot said, Mommy, are

we going to have to sell our house, and am I going to have to leave school? Because it's real life, these are real people, real people. And so, we've done a great job in this Senate of supporting our law enforcement, and we should always do that as well as look at the entire scope of what's happening, you know, in our country today. So, thank you for bringing this and such a tragedy, an animal call, their lives. Thank you, Senator Perry. Members, please rise to honor these officers.

**(President Pro Tempore Birdwell in Chair)**

**SENATE BILL 860 WITH HOUSE AMENDMENT**

Senator Johnson called **SB 860** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 860** (house committee report) on page 2 by striking lines 14 through 17 and substituting the following:

(i) in the course of:

(a) a prearranged shipping transaction; or

(b) a commercial transaction for transport of a damaged vehicle arranged or authorized by an insurance company and delivered to a salvage pool operator as defined by Section 2302.001; or

The amendment was read.

Senator Johnson moved to concur in the House amendment to **SB 860**.

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

**SENATE BILL 1480 WITH HOUSE AMENDMENT**

Senator Johnson called **SB 1480** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 1480** (house committee printing) as follows:

(1) On page 6, line 7, following the underlined semicolon, insert "and".

(2) On page 6, line 9, strike "; and" and substitute an underlined period.

(3) On page 6, strike lines 10-11.

(4) On page 11, strike lines 19-21, and renumber subsequent sections of added Chapter 171, Government Code, and cross-references to those sections accordingly.

(5) Strike "felony of the third degree" and substitute "Class A misdemeanor" in each of the following places in which it appears:

(A) page 14, lines 10-11; and

(B) page 14, lines 17-18.

(6) On page 14, line 21, strike "ATTENDANCE AT" and substitute "[ATTENDANCE AT]".

(7) On page 16, line 3, strike "successfully complete [~~attend~~]" and substitute "attend".

(8) On page 23, line 11, strike "attending" and substitute "[~~attending~~]".

(9) On page 25, line 9, strike "attending" and substitute "[~~attending~~]".

The amendment was read.

Senator Johnson moved to concur in the House amendment to **SB 1480**.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Springer.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 28, 2021 - 1

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

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

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

**HB 18** (146 Yeas, 0 Nays, 1 Present, not voting)

**HB 19** (106 Yeas, 38 Nays, 1 Present, not voting)

**HB 29** (102 Yeas, 45 Nays, 1 Present, not voting)

**HB 39** (146 Yeas, 0 Nays, 1 Present, not voting)

**HB 115** (140 Yeas, 5 Nays, 1 Present, not voting)

**HB 135** (144 Yeas, 0 Nays, 1 Present, not voting)

**HB 385** (111 Yeas, 31 Nays, 1 Present, not voting)

**HB 547** (80 Yeas, 63 Nays, 1 Present, not voting)

**HB 549** (137 Yeas, 0 Nays, 1 Present, not voting)

**HB 619** (95 Yeas, 47 Nays, 2 Present, not voting)

**HB 692** (145 Yeas, 0 Nays, 2 Present, not voting)

**HB 750** (137 Yeas, 10 Nays, 1 Present, not voting)

**HB 872** (144 Yeas, 0 Nays, 1 Present, not voting)

**HB 885** (144 Yeas, 1 Nays, 1 Present, not voting)

**HB 981**

**HB 1172** (147 Yeas, 0 Nays, 1 Present, not voting)



**HB 1239** (113 Yeas, 30 Nays, 1 Present, not voting)  
**HB 1240** (100 Yeas, 40 Nays, 1 Present, not voting)  
**HB 1247** (114 Yeas, 32 Nays, 1 Present, not voting)  
**HB 1301** (93 Yeas, 46 Nays, 2 Present, not voting)  
**HB 1371** (119 Yeas, 21 Nays, 1 Present, not voting)  
**HB 1423** (84 Yeas, 57 Nays, 2 Present, not voting)  
**HB 1456** (110 Yeas, 35 Nays, 1 Present, not voting)  
**HB 1518** (115 Yeas, 24 Nays, 2 Present, not voting)  
**HB 1540** (145 Yeas, 0 Nays, 1 Present, not voting)  
**HB 1664** (128 Yeas, 16 Nays, 1 Present, not voting)  
**HB 1698** (95 Yeas, 48 Nays, 2 Present, not voting)  
**HB 1802** (134 Yeas, 9 Nays, 2 Present, not voting)  
**HB 1849** (142 Yeas, 0 Nays, 1 Present, not voting)  
**HB 1925** (101 Yeas, 45 Nays, 1 Present, not voting)  
**HB 1935** (143 Yeas, 1 Nays, 2 Present, not voting)  
**HB 2086** (147 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2116** (136 Yeas, 6 Nays, 2 Present, not voting)  
**HB 2237** (141 Yeas, 1 Nays, 2 Present, not voting)  
**HB 2365** (91 Yeas, 54 Nays, 2 Present, not voting)  
**HB 2721** (142 Yeas, 3 Nays, 1 Present, not voting)  
**HB 2896** (145 Yeas, 0 Nays, 2 Present, not voting)  
**HB 2924** (126 Yeas, 19 Nays, 2 Present, not voting)  
**HB 3026** (106 Yeas, 41 Nays, 1 Present, not voting)  
**HB 3261** (143 Yeas, 2 Nays, 2 Present, not voting)  
**HB 3379** (134 Yeas, 9 Nays, 2 Present, not voting)  
**HB 3459**  
**HB 3821** (144 Yeas, 0 Nays, 1 Present, not voting)  
**HB 3853** (145 Yeas, 0 Nays, 1 Present, not voting)  
**HB 3897** (114 Yeas, 31 Nays, 1 Present, not voting)  
**HB 3924** (104 Yeas, 42 Nays, 2 Present, not voting)  
**HB 3927** (125 Yeas, 16 Nays, 4 Present, not voting)  
**HB 3932** (117 Yeas, 27 Nays, 1 Present, not voting)  
**HB 3961** (146 Yeas, 0 Nays, 1 Present, not voting)  
**HB 4056** (104 Yeas, 43 Nays, 1 Present, not voting)

**HB 4293** (118 Yeas, 25 Nays, 2 Present, not voting)

**HB 4346** (119 Yeas, 24 Nays, 1 Present, not voting)

**HB 4544** (144 Yeas, 0 Nays, 2 Present, not voting)

**HB 4663** (98 Yeas, 44 Nays, 2 Present, not voting)

**HB 4667** (123 Yeas, 18 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 2030**

House Conferees: Turner, Chris - Chair/Dutton/Goldman/Murphy/Thompson, Senfronia

**HB 2593**

House Conferees: Moody - Chair/Biedermann/Dutton/Krause/Slaton

**HB 3476**

House Conferees: Schofield - Chair/Moody/Oliverson/Rodriguez/Zwiener

**HB 3973**

House Conferees: Walle - Chair/Craddick/Geren/Herrero/Minjarez

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

**HB 1501**

Pursuant to a sustained point of order due to non-germane amendments, the house returns HB 1501 to the senate for further consideration.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE BILL 1896 WITH HOUSE AMENDMENTS**

Senator Kolkhorst called **SB 1896** from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the House amendments before the Senate.

**Amendment**

A BILL TO BE ENTITLED  
AN ACT

relating to the provision of health and human services by the Department of Family and Protective Services and the Health and Human Services Commission.

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

SECTION 1. Subchapter E, Chapter 263, Family Code, is amended by adding Section 263.409 to read as follows:

Sec. 263.409. FINAL NOTIFICATION OF BENEFITS RELATED TO KINSHIP VERIFICATION. Before a court enters a final order naming a relative or another adult with a longstanding and significant relationship with a foster child as the permanent managing conservator for the child, the court shall verify that:

(1) the individual was offered the opportunity to become verified by a licensed child-placing agency to qualify for permanency care assistance benefits under Subchapter K, Chapter 264, and the individual declined the verification process and the permanency care assistance benefits; and

(2) the child-placing agency conducting the verification for the individual's permanency care assistance benefits has been notified of the individual's decision to decline the permanency care assistance benefits.

SECTION 2. Section 264.107(g), Family Code, is amended to read as follows:

(g) If the department or single source continuum contractor is unable to find an appropriate placement for a child, an employee of the department or contractor who has on file with the department or contractor, as applicable, a background and criminal history check may provide temporary emergency care for the child. The [Am] employee may not provide emergency care under this subsection in the employee's residence. The department or contractor shall provide notice to the court for a child placed in temporary care under this subsection not later than the next business day after the date the child is placed in temporary care.

SECTION 3. Subchapter B, Chapter 264, Family Code, is amended by adding Sections 264.1071 and 264.1073 to read as follows:

Sec. 264.1071. OFFICE STAYS PROHIBITED. The department may not allow a child to stay overnight in a department office.

Sec. 264.1073. TREATMENT FOSTER CARE. The department and single source continuum contractors shall:

(1) lessen employment restrictions to allow single parents to participate in treatment foster care, when quality care is assured;

(2) expand the eligible age for treatment foster care to include children 10 years of age or older;

(3) prepare and plan for the subsequent placement not later than the 30th day after a child is placed in treatment foster care to assist in the transition to the least restrictive placement; and

(4) extend the length of time for a treatment foster care placement.

SECTION 4. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.117 to read as follows:

Sec. 264.117. MENTORS FOR FOSTER CHILDREN. (a) The department and each single source continuum contractor in this state, in collaboration with local governmental entities and faith- and community-based organizations, shall examine the feasibility of designing a volunteer mentor program for children in congregate care settings.

(b) Not later than December 31, 2022, the department shall report its findings and recommendations for establishing a mentor program to the legislature.

(c) This section expires September 1, 2023.

SECTION 5. (a) Section 264.1261, Family Code, is amended by adding Subsections (b-1), (b-2), (b-3), and (b-4) to read as follows:

(b-1) Notwithstanding Section 264.0011, the Health and Human Services Commission, in collaboration with the department and each single source continuum contractor in this state, shall develop a plan to increase the placement capacity in each catchment area of the state with the goal of eliminating the need to place a child outside of the child's community. In developing the plan, the commission shall:

(1) evaluate whether contracting for additional capacity at residential treatment centers, facilities that provide mental inpatient or outpatient beds for crisis intervention and stabilization purposes only for children with severe behavioral health or mental health needs, and other potential temporary placement options provides the best methods for meeting capacity shortages; and

(2) make a recommendation to the department regarding contracting for additional capacity.

(b-2) A plan developed under Subsection (b-1) that includes the use of an inpatient or outpatient mental health facility must require the facility to discharge a child placed in the facility not later than 72 hours after the treating health care provider determines it is not medically necessary for the child to remain in the facility.

(b-3) The plan developed under Subsection (b-1) must include information and contingency plans to ensure adequate capacity in other facilities to meet placement needs when a facility is placed on probation.

(b-4) The department and each single source continuum contractor shall contract with facilities for reserve beds to ensure the department may place each child in a facility if capacity is otherwise unavailable.

(b) Sections 264.1261(a) and (b), Family Code, as added by Chapter 822 (H.B. 1549), Acts of the 85th Legislature, Regular Session, 2017, are repealed.

SECTION 6. Section 264.152(4), Family Code, is amended to read as follows:

(4) "Community-based care" means the provision of child welfare services in accordance with state and federal child welfare goals by a community-based nonprofit or a local governmental entity under a contract that includes direct case management to:

(A) prevent entry into foster care;

(B) reunify and preserve families;

(C) ensure child safety, permanency, and well-being; and

(D) reduce future referrals of children or parents to the department [foster care redesign required by Chapter 598 (S.B. 218), Acts of the 82nd Legislature, Regular Session, 2011, as designed and implemented in accordance with the plan required by Section 264.153].

SECTION 7. Section 264.154, Family Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) To enter into a contract with the commission or department to serve as a single source continuum contractor to provide services under this subchapter [~~foster care service delivery~~], an entity must be:

(1) a nonprofit entity that has:

(A) an organizational mission focused on child welfare; and

(B) a majority of the entity's board members residing in this state; or

(2) a governmental entity.

(c) The department shall request local stakeholders in a catchment area, including those listed in Section 264.155(a)(8), to provide any necessary information about the catchment area that will assist the department in:

(1) preparing the department's request for bids, proposals, or other applicable expressions of interest to provide community-based care in the catchment area; and

(2) selecting a single source continuum contractor to provide community-based care in the catchment area.

SECTION 8. Section 264.155, Family Code, is amended to read as follows:

Sec. 264.155. REQUIRED CONTRACT PROVISIONS. (a) A contract with a single source continuum contractor to provide community-based care services in a catchment area must include provisions that:

(1) establish a timeline for the implementation of community-based care in the catchment area, including a timeline for implementing:

(A) case management services for children, families, and relative and kinship caregivers receiving services in the catchment area; and

(B) family reunification support services to be provided after a child receiving services from the contractor is returned to the child's family;

(2) establish conditions for the single source continuum contractor's access to relevant department data and require the participation of the contractor in the data access and standards governance council created under Section 264.159;

(3) require the single source continuum contractor to create a single process for the training and use of alternative caregivers for all child-placing agencies in the catchment area to facilitate reciprocity of licenses for alternative caregivers between agencies, including respite and overnight care providers, as those terms are defined by department rule;

(4) require the single source continuum contractor to maintain a diverse network of service providers that offer a range of foster capacity options and that can accommodate children from diverse cultural backgrounds;

(5) allow the department to conduct a performance review of the contractor beginning 18 months after the contractor has begun providing case management and family reunification support services to all children and families in the catchment area and determine if the contractor has achieved any performance outcomes specified in the contract;

(6) following the review under Subdivision (5), allow the department to:

(A) impose financial penalties on the contractor for failing to meet any specified performance outcomes; or

(B) award financial incentives to the contractor for exceeding any specified performance outcomes;

(7) require the contractor to give preference for employment to employees of the department:

(A) whose position at the department is impacted by the implementation of community-based care; and

(B) who are considered by the department to be employees in good standing;

(8) require the contractor to provide preliminary and ongoing community engagement plans to ensure communication and collaboration with local stakeholders in the catchment area, including any of the following:

- (A) community faith-based entities;
- (B) the judiciary;
- (C) court-appointed special advocates;
- (D) child advocacy centers;
- (E) service providers;
- (F) foster families;
- (G) biological parents;
- (H) foster youth and former foster youth;
- (I) relative or kinship caregivers;
- (J) child welfare boards, if applicable;
- (K) attorneys ad litem;
- (L) attorneys that represent parents involved in suits filed by the department; and

(M) any other stakeholders, as determined by the contractor; and

(9) require that the contractor comply with any applicable court order issued by a court of competent jurisdiction in the case of a child for whom the contractor has assumed case management responsibilities or an order imposing a requirement on the department that relates to functions assumed by the contractor.

(b) A contract with a single source continuum contractor under this subchapter must be consistent with the requirements of applicable law and may only include terms authorized by the laws or rules of this state.

(c) In regions identified for implementing community-based care and in regions where community-based care has been implemented, a contractor may apply to the department for a waiver from any statutory and regulatory requirement to increase innovation and flexibility for achieving contractual performance outcomes.

SECTION 9. Sections 264.157(a), (b), and (c), Family Code, are amended to read as follows:

(a) Not later than the last day of the state fiscal biennium ~~[December 31, 2019]~~, the department shall:

(1) identify the ~~[not more than eight]~~ catchment areas in the state where the department will implement ~~[that are best suited to implement]~~ community-based care; and

(2) following the implementation of community-based care services in those catchment areas, retain an entity based in this state that is independent of the department to conduct an evaluation of ~~[evaluate]~~ the implementation process and the single source continuum contractor performance in each catchment area.

(b) Notwithstanding the process for the expansion of community-based care described in Subsection (a), ~~[and in accordance with the community-based care implementation plan developed under Section 264.153, beginning September 1, 2017,]~~ the department shall accept and evaluate unsolicited proposals ~~[begin accepting applications]~~ from entities based in this state to provide community-based care services in a geographic service ~~[designated catchment]~~ area where the department has not implemented community-based care. An entity that submits a proposal to provide

community-based care services must ensure that it meets all criteria outlined by this subchapter and must demonstrate established connections to the area the entity proposes to serve. The Health and Human Services Commission in conjunction with the department shall adopt rules to ensure that proposals submitted under this subsection comply with state procurement laws and rules.

(c) In expanding community-based care, the department may change the geographic boundaries of catchment areas as necessary to align with specific communities or to enable satisfactory unsolicited proposals for community-based care services to be accepted and implemented.

SECTION 10. Section 264.158, Family Code, is amended by adding Subsection (d) to read as follows:

(d) A single source continuum contractor may implement its own procedures to execute the department's statutory duties the contractor assumes and is not required to follow the department's procedures to execute the assumed department duties.

SECTION 11. Section 264.159, Family Code, is amended to read as follows:

Sec. 264.159. DATA ACCESS AND STANDARDS GOVERNANCE COUNCIL. (a) The department shall create a data access and standards governance council to develop protocols for the interoperable electronic transfer of data from single source continuum contractors to the department to allow the contractors to perform case management functions and additional contracted services by the department.

(b) The council shall develop protocols for the access, management, and security of case data that is electronically shared between ~~by~~ a single source continuum contractor and ~~with~~ the department.

(c) The council shall develop protocols for the access, management, and security of data shared with an independent entity retained to conduct the independent evaluations required under this subchapter. The protocols shall ensure the entity has full, unrestricted access to all relevant data necessary to perform an evaluation.

(d) The council consists of single source continuum contractors with active contracts and department employees who provide data, legal, information technology, and child protective services. The council shall meet at least quarterly during each calendar year.

SECTION 12. Subchapter B-1, Chapter 264, Family Code, is amended by adding Sections 264.171 and 264.172 to read as follows:

Sec. 264.171. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON COMMUNITY-BASED CARE TRANSITION. (a) Notwithstanding Section 264.0011, in this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Committee" means the Joint Legislative Oversight Committee on Community-Based Care Transition.

(3) "Department" means the Department of Family and Protective Services.

(b) The Joint Legislative Oversight Committee on Community-Based Care Transition is composed of six voting members as follows:

(1) three members of the senate, appointed by the lieutenant governor; and

(2) three members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The lieutenant governor and speaker of the house of representatives shall each appoint a member described by Subsection (b)(1) or (2), respectively, to serve as joint chairs of the committee.

(d) The committee shall meet at the call of the joint chairs and may consider public testimony.

(e) The committee may employ persons necessary to carry out this section through funds made available by the legislature.

(f) The committee shall monitor and report to the legislature on the following related to the implementation of community-based care:

(1) the funding of community-based care;

(2) the performance and outcomes of community-based care statewide and by region;

(3) statutory or regulatory barriers to the successful implementation of community-based care; and

(4) other challenges to the successful implementation of community-based care.

(g) The committee may request any relevant information from the commission, the department, or another relevant state agency, and the commission, department, or agency shall comply with the request, unless the provision of the information is prohibited by state or federal law.

(h) Not later than January 1 of each odd-numbered year, the committee shall submit a written report of the committee's findings and recommendations to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the standing committees of the senate and house of representatives having primary jurisdiction over child welfare issues.

(i) The committee shall monitor the continued implementation of community-based care and hold public hearings to receive comments from the public on the implementation of community-based care.

Sec. 264.172. OFFICE OF COMMUNITY-BASED CARE TRANSITION. (a)

In this section:

(1) "Department" means the Department of Family and Protective Services.

(2) "Office" means the Office of Community-Based Care Transition created under this section.

(b) The Office of Community-Based Care Transition is a state agency independent of but administratively attached to the department.

(c) The office shall:

(1) assess catchment areas in this state where community-based care services may be implemented;

(2) develop a plan for implementing community-based care in each catchment area in this state, including the order in which community-based care will be implemented in each catchment area and a timeline for implementation;

(3) evaluate community-based care providers;

(4) contract, on behalf of the department, with community-based care providers to provide services in each catchment area in this state;

(5) measure contract performance of community-based care providers;

(6) provide contract oversight of community-based care providers;



(7) report outcomes of community-based care providers;

(8) identify the employees and other resources to be transferred to the community-based care provider to provide the necessary implementation, case management, operational, and administrative functions and outline the methodology for determining the employees and resources to be transferred;

(9) create a risk-sharing funding model that strategically and explicitly balances financial risk between this state and the community-based care provider and mitigates the financial effects of significant unforeseen changes in the community-based care provider's duties or the population of the region it serves; and

(10) require the annual review and adjustment of the funding based on updated cost and finance methodologies, including changes in policy, foster care rates, and regional service usage.

(d) The department shall provide any administrative support the office needs, and the department and the Health and Human Services Commission shall provide access to any information and legal counsel the office requires to implement community-based care.

(e) The governor shall appoint the director of the office to serve in that capacity at the pleasure of the governor. The director reports directly to the governor.

(f) The office shall report to the legislature at least once each calendar quarter regarding the implementation of community-based care in the state.

(g) A provision of this subchapter applicable to the department with respect to any duty assigned by this section to the office applies to the office in the same manner as the provision would apply to the department.

(h) Except as otherwise provided by this section, the department retains the powers and duties provided by this subchapter to the department.

(i) The office is abolished and this section expires on the date that community-based care is implemented in the last department region in this state.

SECTION 13. (a) Subchapter A, Chapter 533, Government Code, is amended by adding Sections 533.00521 and 533.00522 to read as follows:

Sec. 533.00521. STAR HEALTH PROGRAM: HEALTH CARE FOR FOSTER CHILDREN. (a) The commission shall annually evaluate the use of benefits under the Medicaid program in the STAR Health program offered to children in foster care and provide recommendations to the Department of Family and Protective Services and each single source continuum contractor in this state to better coordinate the provision of health care and use of those benefits for children in foster care.

(b) In conducting the evaluation required under Subsection (a), the commission shall:

(1) collaborate with residential child-care providers regarding any unmet needs of children in foster care and the development of capacity for providing quality medical, behavioral health, and other services for children in foster care; and

(2) identify options to obtain federal matching funds under the Medical Assistance Program to pay for a safe home-like or community-based residential setting for a child in the conservatorship of the Department of Family and Protective Services:

(A) who is identified or diagnosed as having a serious behavioral or mental health condition that requires intensive treatment;

(B) who is identified as a victim of serious abuse or serious neglect;

(C) for whom a traditional substitute care placement contracted for or purchased by the department is not available or would further denigrate the child's behavioral or mental health condition; or

(D) for whom the department determines a safe home-like or community-based residential placement could stabilize the child's behavioral or mental health condition in order to return the child to a traditional substitute care placement.

(c) The commission shall report its findings to the standing committees of the senate and house of representatives having jurisdiction over the Department of Family and Protective Services.

Sec. 533.00522. STAR HEALTH PROGRAM: MENTAL HEALTH PROVIDERS. A contract between a Medicaid managed care organization and the commission for the organization to provide health care services to recipients under the STAR Health program must require the organization to ensure the organization maintains a network of mental and behavioral health providers, including child psychiatrists and other appropriate providers, in all Department of Family and Protective Services regions in this state, regardless of whether community-based care has been implemented in any region.

(b) The changes in law made by this section apply only to a contract for the provision of health care services under the STAR Health program between the Health and Human Services Commission and a Medicaid managed care organization under Chapter 533, Government Code, that is entered into, renewed, or extended on or after the effective date of this section.

(c) If before implementing Section 533.00522, Government Code, as added by this section, the Health and Human Services Commission determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the health and human services 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 14. Section 2155.089(c), Government Code, is amended to read as follows:

(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;

(2) a contract of the Employees 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; ~~[or]~~

(3) a contract entered into by:

(A) the comptroller under Section 2155.061; or

(B) the Department of Information Resources under Section 2157.068;

or

(4) a child-specific contract entered into by the Department of Family and Protective Services for a child without placement.

SECTION 15. Section 2155.144(a), Government Code, is amended to read as follows:

(a) This section applies only to the Health and Human Services Commission, ~~and to~~ each health and human services agency, and the Department of Family and Protective Services. For the purposes of this section, the Department of Family and Protective Services is considered a health and human services agency.

SECTION 16. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.05291 to read as follows:

Sec. 40.05291. ELECTRONIC CASE MANAGEMENT SYSTEM. (a) The department shall develop a plan to eliminate the department's use of paper case files and fully transition to an electronic case management system.

(b) The department shall implement a fully electronic case management system not later than September 1, 2023.

(c) This section expires September 1, 2025.

SECTION 17. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.0583 to read as follows:

Sec. 40.0583. STATE AUDITOR REVIEW OF CONTRACTS. The state auditor shall annually review the department's performance-based contracts to determine whether the department is properly enforcing contract provisions with providers and to provide recommendations for improving department oversight and execution of contracts.

SECTION 18. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.081 to read as follows:

Sec. 40.081. IMPLEMENTATION OF FEDERAL LAW. (a) In furtherance of department duties under Section 40.002(d), the department shall to the greatest extent possible develop capacity for placement settings that are eligible for federal financial participation under 42 U.S.C. Section 672, including settings:

(1) specializing in providing prenatal, postpartum, or parenting support for youth;

(2) providing high-quality residential care and supportive services to children and youth who this state has reasonable cause to believe are, or who are at risk of being, sex trafficking victims in accordance with 42 U.S.C. Section 671(a)(9)(C);

(3) providing supervised independent living for young adults;

(4) offering residential family-based substance abuse treatment as described by 42 U.S.C. Section 672(j); and

(5) serving as a qualified residential treatment program.

(b) In developing capacity for settings described by Subsection (a)(2), the department shall:

(1) promote the use of nationally recognized tools such as the Commercial Sexual Exploitation-Identification Tool (CSE-IT) and any other indicated treatment models or best practices for the treatment and prevention of sex trafficking victimization; and

(2) use providers that:

(A) use a trauma-informed care model;

(B) have defined programming to address the specific needs of trafficking survivors and youth at risk of trafficking;

(C) have leadership and direct-care staff who have completed training regarding the specific needs of trafficking survivors and youth at risk of trafficking;

(D) have established policies and procedures to minimize risk to a child who is a victim of trafficking placed with the provider and other children placed with the provider, including risks related to running away from the placement or becoming a victim of trafficking; and

(E) provide case management services or contract with an entity in the geographic area of the provider to provide case management services to trafficking victims or potential victims.

SECTION 19. Subchapter B, Chapter 42, Human Resources Code, is amended by adding Section 42.026 to read as follows:

Sec. 42.026. ACCESS TO DATABASE. (a) The commission shall make the child-care licensing division's searchable database accessible to commission and department investigators.

(b) The department shall make the department's searchable database accessible to commission and department investigators.

SECTION 20. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Sections 42.0538 and 42.0583 to read as follows:

Sec. 42.0538. PROVISIONAL LICENSE FOR KINSHIP PROVIDER. (a) The executive commissioner by rule shall allow a child-placing agency to issue a provisional license for a kinship provider, as defined by Section 264.851, Family Code, who meets the basic safety requirements provided by commission rule. A kinship provider issued a provisional license under this section shall complete all licensing requirements within the time provided by rule.

(b) The executive commissioner shall ensure that the implementation of this section does not reduce the amount of federal money available to this state.

Sec. 42.0583. IDENTIFYING AT-RISK PROVIDERS. (a) The department shall use data analytics collected regarding residential child-care providers, including general residential operations providing treatment services to young adults with emotional disorders, to develop an early warning system to identify at-risk providers most in need of technical support and to promote corrective actions and minimize standard violations.

(b) The system developed under Subsection (a) must distinguish between different levels of risk using a multi-point severity scale. The department shall make information regarding the severity scale available to:

(1) the standing committees of the senate and the house of representatives with oversight of child-care facilities; and

(2) the public through the department's Internet website.

SECTION 21. Subchapter D, Chapter 42, Human Resources Code, is amended by adding Section 42.080 to read as follows:

Sec. 42.080. DISCIPLINARY ACTION PROHIBITED. The commission may not issue a citation to or take any other disciplinary action against a general residential operation or a child-placing agency for failing to employ a licensed child-care administrator or licensed child-placing administrator, as appropriate, if the operation or agency has:

(1) been without an administrator for less than 60 days; and

(2) made substantial efforts to hire a qualified administrator.

SECTION 22. Subchapter H, Chapter 42, Human Resources Code, is amended by adding Sections 42.2541, 42.256, 42.257, 42.258, 42.259, and 42.260 to read as follows:

Sec. 42.2541. IMPROVING EDUCATION SERVICES FOR CHILDREN. (a) The department shall develop a strategic plan for improving the provision of educational services to children placed in a general residential operation.

(b) The department shall report to the Texas Education Agency the educational outcomes for children placed in a general residential operation.

(c) The department and the Texas Education Agency shall annually evaluate the educational outcomes for children placed in a general residential operation and adopt strategies and policies to improve the outcomes and standards.

Sec. 42.256. TREATMENT MODEL. (a) Each general residential operation providing treatment services shall, on issuance of an initial or renewal license under this chapter, submit to the commission information on the operation's treatment model. A general residential operation that contracts with the department to provide residential care for children in foster care shall submit information on the operation's treatment model to the department on execution and renewal of a contract.

(b) The operation shall annually assess the overall effectiveness of the model adopted under this section.

(c) The treatment model must address all aspects related to children's care, including children's therapeutic needs. The model shall include:

(1) the manner in which treatment goals will be individualized and identified for each child;

(2) the method the operation will use to measure the effectiveness of each treatment goal for the child;

(3) the actions the operation will take if the treatment goals are not met; and

(4) the method the operation will use to monitor and evaluate the effectiveness of the treatment model.

(d) A general residential operation may change a treatment model adopted under this section after notifying the commission of the change and submitting the new treatment model to the commission.

(e) The executive commissioner may adopt rules to implement this section.

(f) The general residential operation shall adopt policies and procedures to implement the treatment model.

Sec. 42.257. EVALUATION OF PLACEMENTS. (a) A general residential operation that considers accepting a child's placement with the operation shall evaluate the proposed placement on the following criteria:

(1) whether the child meets the operation's admission criteria;

(2) whether the child would benefit from the treatment model implemented at the operation; and

(3) whether the operation has the staff and resources to meet the child's needs considering the other children at the operation and the other children's needs.

(b) A general residential operation shall ensure that the evaluation under Subsection (a) does not delay the timely placement of a child.

Sec. 42.258. LIMIT ON PLACEMENTS FOR NEW FACILITY. If the department or a single source continuum contractor contracts with a general residential operation providing treatment services to place children with the operation before the operation is licensed, the contract must limit the number of children that may be placed at the operation each month and limit the number of children with a service level of specialized, intense, or intense plus until the operation exhibits sustained compliance with the licensing standards.

Sec. 42.259. TRANSITION PLANS. A general residential operation shall develop a transition plan for each child who has been placed at the operation for longer than six months.

Sec. 42.260. TELEHEALTH PILOT PROGRAM. The commission in coordination with the department and single source continuum contractors shall establish guidelines in the STAR Health program to improve the use of telehealth services to provide and enhance mental health and behavioral health care for children placed in the managing conservatorship of the state.

SECTION 23. Section 43.0081, Human Resources Code, is amended to read as follows:

Sec. 43.0081. PROVISIONAL LICENSE. (a) The commission [~~department~~] may issue a provisional child-care administrator's license to:

(1) an applicant licensed in another state who applies for a license in this state if the applicant [~~An applicant for a provisional license under this section must~~]:

(A) is [~~(1) be~~] licensed in good standing as a child-care administrator for at least two years in another state, the District of Columbia, a foreign country, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(B) has [~~(2) have~~] passed a national or other examination recognized by the commission [~~department~~] that demonstrates competence in the field of child-care administration; and

(C) is [~~(3) be~~] sponsored by a person licensed by the commission [~~department~~] under this chapter with whom the provisional license holder may practice under this section; and

(2) an applicant who:

(A) otherwise qualifies for a license but does not meet the experience requirement in Section 43.004(a)(4); and

(B) complies with any additional requirement established by rule under Subsection (e).

(b) The commission [~~department~~] may waive the requirement of Subsection (a)(1)(C) [~~(a)(3)~~] for an applicant if the commission [~~department~~] determines that compliance with that paragraph [~~subsection~~] constitutes a hardship to the applicant.

(c) A provisional license under Subsection (a)(1) is valid until the date the commission [~~department~~] approves or denies the provisional license holder's application for a license. The commission [~~department~~] shall issue a license under this chapter to the provisional license holder described by Subsection (a)(1) if:

(1) the provisional license holder passes the examination required by Section 43.004;

(2) the commission [~~department~~] verifies that the provisional license holder has the academic and experience requirements for a license under this chapter; and

(3) the provisional license holder satisfies any other license requirements under this chapter.

(d) For a provisional license holder described by Subsection (a)(1), the commission shall [~~The department must~~] 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. The commission [~~department~~] may extend the 180-day limit if the results of the license holder's examination have not been received by the commission [~~department~~].

(e) The executive commissioner by rule may establish additional requirements for the issuance of a provisional child-care administrator's license under Subsection (a)(2)(A) as the executive commissioner determines appropriate.

SECTION 24. The following provisions are repealed:

- (1) Section 264.156(c), Family Code;
- (2) Section 264.169, Family Code; and
- (3) Section 40.0581(f), Human Resources Code.

SECTION 25. (a) The Health and Human Services Commission, in collaboration with the Department of Family and Protective Services, shall review the Centers for Medicare and Medicaid Services' Integrated Care for Kids (InCK) Model to determine whether implementing the model could benefit children in this state, including children enrolled in the STAR Health Medicaid managed care program.

(b) Not later than December 1, 2022, the Health and Human Services Commission shall report its findings to the governor and legislature.

(c) This section expires September 1, 2023.

SECTION 26. Not later than December 1, 2022, the Department of Family and Protective Services shall provide the legislature with options for conducting:

- (1) independent administrative reviews of department investigations of licensed residential child-care facilities; and
- (2) independent appeals of determinations from those investigations.

SECTION 27. (a) The Department of Family and Protective Services shall:

- (1) study extending permanency care assistance benefits to individuals who are not relatives of a foster child and who do not have a longstanding and significant relationship with the foster child before the child enters foster care; and
- (2) assess the potential impact and favorable permanency outcomes for children who might otherwise remain in foster care for long periods or have managing conservatorship of the child transferred without any benefits to the caregiver.

(b) Not later than December 31, 2022, the Department of Family and Protective Services shall submit a report to the legislature on the results of the study and assessment conducted under this section and recommendations for further action based on the study and assessment.

(c) This section expires September 1, 2023.

SECTION 28. Not later than January 1, 2025, the Department of Family and Protective Services shall:

(1) transition the family-based safety services program to evidence-based programs under the Family First Prevention Services Act (Title VII, Div. E, Pub. L. No. 115-123);

(2) develop an implementation plan for the transition of services; and

(3) develop community referrals to existing prevention and early intervention programs.

SECTION 29. The executive commissioner of the Health and Human Services Commission shall adopt minimum standards related to continuum-of-care operations, cottage home operations, and specialized child-care homes as provided by Section 42.042, Human Resources Code, as amended by Chapter 317 (H.B. 7), Acts of the 85th Legislature, Regular Session, 2017, as soon as practicable after the effective date of this Act but not later than January 1, 2024.

SECTION 30. The Health and Human Services Commission and the Department of Family and Protective Services shall jointly evaluate the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), to determine methods for maximizing this state's receipt of federal funds to provide foster youth transition planning to adulthood and additional services for foster youth and young adults in extended foster care.

SECTION 31. (a) As soon as practicable after the effective date of this Act but not later than October 15, 2021, the governor shall appoint the director of the Office of Community-Based Care Transition as required by Section 264.172, Family Code, as added by this Act.

(b) As soon as practicable after the effective date of this Act, the Department of Family and Protective Services shall transfer all money, contracts, leases, property, and obligations related to the powers and duties of the Office of Community-Based Care Transition to that office.

SECTION 32. The Office of Community-Based Care Transition, the Department of Family and Protective Services, and the Health and Human Services Commission are required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Office of Community-Based Care Transition, the Department of Family and Protective Services, and the Health and Human Services Commission may, but are not required to, implement this Act using other appropriations available for the purpose.

SECTION 33. 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, 2021.

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

Amend **CSSB 1896** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.0433 to read as follows:



Sec. 42.0433. SUICIDE PREVENTION, INTERVENTION, AND POSTVENTION PLAN. (a) In this section, "postvention" has the meaning assigned by Section 38.351, Education Code.

(b) The executive commissioner by rule shall adopt a model suicide prevention, intervention, and postvention policy for use by a residential child-care facility. The model policy must:

(1) be based on current and best evidence-based practices;

(2) require all employees of the facility to receive annual suicide prevention training that includes understanding of safety planning and screening for risk;

(3) promote suicide prevention training for non-employee entities, as appropriate; and

(4) include procedures to support children who return to the facility following hospitalization for a mental health condition.

(c) Each residential child-care facility shall adopt a suicide prevention, intervention, and postvention policy. A residential child-care facility may adopt:

(1) the model policy adopted by the executive commissioner under Subsection (b); or

(2) another suicide prevention, intervention, and postvention policy approved by the executive commissioner.

(d) The suicide prevention, intervention, and postvention policy adopted under Subsection (c) may be part of a broader mental health crisis plan if the components of the plan include suicide prevention, intervention, and postvention.

(e) The commission shall provide to a residential child-care facility any technical assistance necessary to adopt or implement a suicide prevention, intervention, and postvention policy.

SECTION \_\_\_\_\_. Section 42.252(c), Human Resources Code, is amended to read as follows:

(c) The operational plan must include:

(1) a community engagement plan to develop and, if necessary, improve relations between the general residential operation and the community in which the operation is located that includes:

(A) a summary of any discussions the operation had with:

(i) local law enforcement; and

(ii) local health, therapeutic, and recreational resources available to support children at the operation; and

(B) a summary of the opportunities the children at the operation will have for social interaction in the community;

(2) an educational plan describing the applicant's plan to provide for the educational needs of the children at the general residential operation that:

(A) identifies whether the proposed operation will provide for the public or private education of school-age children at the operation;

(B) identifies whether the proposed operation will provide for the education of school-age children through a local school, off-site charter school, or on-site charter school;

(C) includes any discussions, plans, and agreements with the local school district, private school, or local charter school that will be providing education to the school-age children at the operation; and

(D) if the children are to be enrolled in a public school, includes either:

(i) a statement from the local independent school district on the impact of the proposed child-care services on the local school district; or

(ii) an explanation of the reasons the operation was unable to obtain a statement described by Subparagraph (i) and a discussion of other alternative educational services that the operation could offer;

(3) a trauma-informed plan to address unauthorized absences of children from the general residential operation; ~~and~~

(4) a suicide prevention, intervention, and postvention plan that meets the requirements of Section 42.0433; and

(5) the qualifications, background, and history, including any compliance history, of each individual who is proposed to be involved in:

(A) the management of the operation; and

(B) the educational leadership of the operation if the operation will be using an on-site charter school.

SECTION \_\_\_\_\_. Not later than July 1, 2022, the executive commissioner of the Health and Human Services Commission shall adopt the model suicide prevention, intervention, and postvention policy required by Section 42.0433, Human Resources Code, as added by this Act.

The amendments were read.

Senator Kolkhorst moved to concur in the House amendments to **SB 1896**.

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

### **SENATE BILL 424 WITH HOUSE AMENDMENTS**

Senator Hinojosa called **SB 424** from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the House amendments before the Senate.

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

Amend **SB 424** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 6002.159, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The commissioner may not adopt a rule that excludes or devalues a signed or otherwise substantially verifiable certificate of training that is:

(1) applicable to the areas of work authorized by the relevant license; and

(2) issued by a training program or school that is:

(A) nationally recognized; or

(B) authorized under the Occupations Code or Education Code.

(c) The commissioner may not adopt a rule that requires more than eight hours of [Participation in the] continuing education for any license renewal period [programs is voluntary].

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

Amend **SB 424** on third reading by striking the SECTION of the bill amending Section 6002.159, Insurance Code, as added by Amendment No. 1 by Clardy.

The amendments were read.

Senator Hinojosa moved to concur in the House amendments to **SB 424**.

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

### **SENATE BILL 1421 WITH HOUSE AMENDMENT**

Senator Bettencourt called **SB 1421** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

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

Amend **SB 1421** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 41.413(d) and (e), Tax Code, are amended to read as follows:

(d) An [A—property] owner of real property shall send to a person leasing property under a contract described by Subsection (b) [this section] a copy of any notice of appraised value of the property received by the property owner. The property owner must send the notice not later than the 10th day after the date the property owner receives the notice. Failure of the property owner to send a copy of the notice to the person leasing the property does not affect the time within which the person leasing the property may protest the appraised value. This subsection does not apply if the property owner and the person leasing the property have agreed in the contract to waive the requirements of this subsection or that the person leasing the property will not protest the appraised value of the property.

(e) A person leasing real property under a contract described by Subsection (b) [this section] may request that the chief appraiser of the appraisal district in which the property is located send the notice described by Subsection (d) to the person. Except as provided by Subsection (f), the chief appraiser shall send the notice to the person leasing the property not later than the fifth day after the date the notice is sent to the property owner if the person demonstrates that the person is contractually obligated to reimburse the property owner for the taxes imposed on the property.

SECTION \_\_\_\_\_. The changes in law made by this Act to Section 41.413(d) and (e), Tax Code, apply only to a notice of appraised value received by a property owner on or after the effective date of this Act.

The amendment was read.

Senator Bettencourt moved to concur in the House amendment to **SB 1421**.

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

**SENATE BILL 1605 WITH HOUSE AMENDMENT**

Senator Huffman called **SB 1605** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

**Amendment**

A BILL TO BE ENTITLED  
AN ACT

relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

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

SECTION 1. The following sums of money are appropriated out of the General Revenue Fund No. 0001 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay claim number 95M00025 to a confidential payee for replacement of a void franchise tax warrant issued October 6, 2016.

\$89,667.22

To pay claim number 95M00032 to Sadler Clinic Association for replacement of a void warrant for workers' compensation issued December 3, 2009.

\$15.00

To pay claim number 95M00078 to a confidential payee for replacement of a void franchise tax warrant issued September 17, 2015.

\$433,228.77

To pay claim number 95M00079 to Lone Star Overnight for pickup and delivery services, invoice number 4746152, from September 10, 2010, to September 20, 2010.

\$14.60

To pay claim number 95M00081 to Craig Eiland for replacement of void travel warrants issued July 8, 2011, and August 1, 2011.

\$213.90

To pay claim number 95M00134 to Pharr-San Juan-Alamo Independent School District for Invoice 32, services for June 2017 for the Texas Migrant Interstate Program, contract 3255, purchase order 36209.

\$36,455.58

To pay claim number 95M00136 to Pharr-San Juan-Alamo Independent School District for invoice 34, services for August 2017 for the Texas Migrant Interstate Program, contract 3255, purchase order 36209.

\$84,106.54

To pay claim number 95M00154 to Texas A&M University for expenses associated with student identification number 420005904 between August 30, 2010, and December 15, 2010.

\$2,323.39

To pay claim number 95M00161 to a confidential payee for replacement of a void franchise tax warrant issued July 26, 2007.

\$1,250.92

To pay claim number 95M00207 to Opportunities Counseling Center for group, individual, and family counseling services, invoice 32255178, in June 2015.

\$16,662.39

To pay claim number 95M00223 to a confidential payee for replacement of a void sales tax warrant issued October 25, 2016.

\$59,096.76

To pay claim number 95M00262 to a confidential payee for replacement of a void payroll warrant issued August 3, 2009.

\$2,774.47

To pay claim number 95M00340 to The University of Texas at San Antonio - Financial Service for Title IV-E training - direct, indirect, and stipend costs from October 1, 2016, to August 31, 2017, contract 530-17-0073-00001.

\$172,159.27

To pay claim number 95M00381 to ACH Child and Family Services for confidential adoption services, account 24128869 - various adoptions occurring from February 29, 2016, to May 2, 2017.

\$68,200.00

To pay claim number 95M00408 to Ultimate Pediatric Care, Inc. for nursing home services provided from August 16, 2010, to January 31, 2012.

\$47,482.70

To pay claim number 95M00448 to Touchstone Strategies, LLC for nursing home services from June 1, 2013, to December 30, 2013.

\$56,440.85

To pay claim number 95M00452 to Courage Health Care Services, Inc. for community care services from September 1, 2009, to December 31, 2010.

\$22,187.58

To pay claim number 95M00454 to a confidential payee for replacement of a void franchise tax warrant issued October 1, 2009.

\$6,498.48

To pay claim number 95M00463 to a confidential payee for replacement of a void sales tax warrant issued March 31, 2015.

\$574,471.27

To pay claim number 95M00465 to Carol Lynn Whalen for replacement of a void unclaimed property warrant issued July 19, 2016.

\$1,827,682.53

To pay claim number 95M10010 to a confidential payee for replacement of a void franchise tax warrant issued August 8, 2017.

\$57,729.72

To pay claim number 95M10012 to a confidential payee for replacement of a void franchise tax warrant issued August 7, 2017.

\$11,203.82

To pay claim number 95M10021 to Tarrant County, Texas for Title IV-E other administration, indirect administration, foster care maintenance from January 2017 to August 2017, contract number 24736951.

\$52,960.05

To pay claim number 95M10039 to a confidential payee for replacement of a void franchise tax warrant issued October 16, 2014.

\$121,061.13

To pay claim number 95M10055 to a confidential payee for replacement of a void franchise tax warrant issued July 6, 2017.

\$186,137.55

To pay claim number 95M10066 to a confidential payee for replacement of a void sales tax warrant issued July 29, 2011.

\$241.23

To pay claim number 95M10081 to a confidential payee for replacement of a void franchise tax warrant issued September 6, 2011.

\$1,484.88

To pay claim number 95M10088 a confidential payee for replacement of a void sales tax warrant issued March 2, 2010.

\$527.19

To pay claim number 95M10090 to SSC McAllen Las Palmas Operating Company, LLC for nursing home services from September 2, 2012, to August 31, 2013.

\$29,946.12

To pay claim number 95M10144 to a confidential payee for replacement of a void insurance premium tax warrant issued March 12, 2013.

\$239,797.74

To pay claim number 95M90218 to a confidential payee for replacement of a void franchise tax warrant issued December 7, 2007.

\$4,667.38

To pay claim number 95M90222 to a confidential payee for replacement of a void franchise tax warrant issued January 16, 2008.

\$1,185.70

To pay claim number 95M90232 to BearingPoint, Inc. Liquidating Trust for replacement of a void warrant for fees for receiving electronic payment, issued April 20, 2008.

\$10,886.00

To pay claim number 95M90233 to BearingPoint, Inc. Liquidating Trust for replacement of a void warrant for fees for receiving electronic payment issued April 1, 2010.

\$325.36

To pay claim number 95M90239 to Bettye J. Taylor for replacement of a void warrant for cigarette vending machine decals issued March 20, 1984.

\$10.00

To pay claim number 95M90253 to a confidential payee for replacement of a void franchise tax warrant issued December 21, 2012.

\$56,951.44

To pay claim number 95M90255 to a confidential payee for replacement of a void hotel tax warrant issued July 9, 2007.

\$7,135.76

To pay claim number 95M90265 to Hope Home Care, Inc. for community-based alternative care from July 1, 2010, to September 15, 2010.

\$1,757.57

To pay claim number 95M90267 to Cuidado Casero Home Health Central, Inc. for community care services from January 1, 2011, to December 31, 2011.

\$3,871.35

To pay claim number 95M90288 to Diamond Care Health Services, LLC for community care services from January 16, 2011, to April 15, 2011.

\$512.44

To pay claim number 95M90319 to a confidential payee for replacement of a void franchise tax warrant issued September 7, 2010.

\$150.00

To pay claim number 95M90320 to Christopher Cooke for replacement of a void binding arbitration warrant issued March 19, 2009.

\$450.00

To pay claim number 95M90332 to Barnett Lane Investments, Inc. for a refund of an overpayment of dry cleaning fees from July 13, 2009, to January 6, 2015.

\$9,000.00

To pay claim number 95M90340 to St. Agnes Health Care Professionals, Inc. for community-based alternative from April 1, 2010, to January 13, 2011.

\$801.42

To pay claim number 95M90366 to a confidential payee for replacement of a void franchise tax warrant issued April 26, 2013.

\$309,604.50

To pay claim number 95M90454 to a confidential payee for replacement of a void franchise tax warrant issued November 17, 2010.

\$4,198.46

To pay claim number 95M90457 to a confidential payee for replacement of a void sales tax warrant issued June 29, 2016.

\$70,808.30

To pay claim number 95M90458 to a confidential payee for replacement of a void insurance premium tax warrant issued March 25, 2016.

\$194,951.47

To pay claim number 95M90462 to a confidential payee for replacement of a void insurance premium tax warrant issued March 18, 2016.

\$60,609.70

To pay claim number 95MT1001 to Morrison & Foerster, LLP for attorney fees and costs in a lawsuit, Women's Whole Health et al. vs John Hellerstedt et al, AG No. 143495125, litigated before the U.S. District Court for the Western District of Texas, in a case challenging the constitutionality of regulation of abortion procedures.

\$2,563,875.56 (plus 1.94 percent interest compounded annually from August 9, 2019, until paid)

To pay claim number 95MT1002 to the Children's Rights, Inc. for attorney fees and costs in a lawsuit, M.D. et al., v. Governor Greg Abbott, et al., AG No. 113255954, litigated before the U.S. District Court, Southern District of Texas, Corpus Christi Division, in a case alleging systemic problems in the Department of Family and Protective Services' administration of the foster care system.

\$6,272,552.05 (plus 0.15 percent interest per annum, compounded annually from July 14, 2020, until paid)

To pay claim number 95MT1003 to A Better Childhood, Inc. for attorney fees and costs in a lawsuit, M.D. et al., v. Governor Greg Abbott, et al., AG No. 113255954, litigated before the U.S. District Court, Southern District of Texas, Corpus Christi Division, in a case alleging systemic problems in the Department of Family and Protective Services' administration of the foster care system.

\$479,055.91 (plus 0.15 percent interest per annum, compounded annually from July 14, 2020, until paid)

To pay claim number 95MT1004 to Haynes & Boone, LLP, for attorney fees and costs in a lawsuit, M.D. et al., v. Governor Greg Abbott, et al., AG No. 113255954, litigated before the U.S. District Court, Southern District of Texas, Corpus Christi Division, in a case alleging systemic problems in the Department of Family and Protective Services' administration of the foster care system.

\$1,205,678.68 (plus 0.15 percent interest per annum, compounded annually from July 14, 2020, until paid)

To pay claim number 95MT1005 to Yetter Coleman, LLP, for attorney fees and costs in a lawsuit, M.D. et al., v. Governor Greg Abbott, et al., AG No. 113255954, litigated before the U.S. District Court, Southern District of Texas, Corpus Christi Division, in a case alleging systemic problems in the Department of Family and Protective Services' administration of the foster care system.

\$4,493,682.96 (plus 0.15 percent interest per annum, compounded annually from July 14, 2020, until paid)

To pay the United States of America the amount payable under the settlement agreement dated December 20, 2019, entered into between the United States of America, acting through the United States Department of Justice and on behalf of the United States Department of Agriculture, and the Texas Health and Human Services Commission regarding civil claims arising from the payment of accuracy performance bonuses and reimbursement of administrative quality control costs for the Supplemental Nutrition Assistance Program.

\$15,294,360.00

SECTION 2. The following sums of money are appropriated out of the State Highway Fund No. 0006 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay claim number 95M00057 to Consor Engineers, LLC, for professional engineering services, Project B200180.01, Contract No. 36-6IDP5347(5798) WA#1, Invoice No. 1, from April 13, 2017, to May 31, 2017.

\$67,726.82

To pay claim number 95M00194 to Paul Gajkowski for replacement of void employee expense reimbursement warrants issued October 15, 2008.

\$370.97



To pay claim number 95M00364 to Camp County Land Abstract & Title Company for title company work, Invoice 5391, District 19- Atlanta, RCSJ 0248-02-058 Parcel 10.

\$1,286.00

To pay claim number 95M00480 to Travis County Central Collections for Travis County Court Costs from October 11, 2002, to September 1, 2004.

\$4,185.00

To pay claim number 95M00488 to Montgomery County, Texas for reimbursement for acquisition and title fees for Houston District - RCSJ 1259-01-035 Parcel 77, on August 23, 2017.

\$166,117.73

To pay claim number 95M10031 to Montgomery County, Texas for reimbursement for acquisition and title fees for Houston District - RCSJ 1259-01-035 Parcel 65.

\$180,257.65

To pay claim number 95M10104 to Fenway Development, Inc. for temporary construction easement, Account No. 6012-50-009, Right Of Way Control Section Job: 8170-12-002, Parcel 15TCE, on September 13, 2016.

\$188,038.00

To pay claim number 95M10107 to Fort Bend County, Texas for local public agency/title expense reimbursements, Control Job Number: 1415-03-011, Parcel 006 FM 2759 Crabb River Road, on January 3, 2018.

\$86,190.65

To pay claim number 95M10150 to U.S. Fish and Wildlife Services for payment for closeout of insurance, Invoice 0090357473R from January 1, 2015, to June 30, 2015. 576XXF9001; Purchase Order-601CT00000006973.

\$66,910.47

SECTION 3. The following sums of money are appropriated out of the Lottery General Revenue Account No. 5025 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay claim number 95M10038 to Rudolph Properties, Inc. for replacement of void retailer commissions warrant issued June 6, 2011.

\$5,500.00

SECTION 4. The following sums of money are appropriated out of the Designated Trauma Facility and Emergency Medical Services General Revenue Account No. 5111 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay claim number 95M90283 to Memorial Hermann Hospital System for replacement of void warrant for fees for uncompensated trauma care, issued July 17, 2018.

\$317,870.51

SECTION 5. (a) Before any claim or judgment may be paid from money appropriated by this Act, the claim or judgment must be verified and substantiated by the administrator of the special fund or account against which the claim or judgment is to be charged and be approved by the attorney general and the comptroller of public accounts. Any claim or judgment itemized in this Act that has not been verified and

substantiated by the administrator of the special fund or account and approved by the attorney general and the comptroller by August 31, 2023, may not be paid from money appropriated by this Act.

(b) Each claim or judgment paid from money appropriated by this Act must contain such information as the comptroller of public accounts requires but at a minimum must contain the specific reason for the claim or judgment. If the claim is for a void warrant, the claim must include a specific identification of the goods, services, refunds, or other items for which the warrant was originally issued. In addition, it must include a certification by the original payee or the original payee's successors, heirs, or assigns that the debt is still outstanding. If the claim or judgment is for unpaid goods or services, it must be accompanied by an invoice or other acceptable documentation of the unpaid account and any other information that may be required by the comptroller.

SECTION 6. Subject to the conditions and restrictions in this Act and provisions stated in the judgments, the comptroller of public accounts is authorized and directed to issue one or more warrants on the state treasury, as soon as possible following the effective date of this Act, in favor of each of the individuals, firms, corporations, or other entities named or claim numbers identified in this Act, in an amount not to exceed the amount set opposite their respective names or claim numbers and shall mail or deliver to each of the individuals, firms, corporations, or other entities associated with each claim one or more warrants in payment of all claims included in this Act.

SECTION 7. This Act takes effect September 1, 2021.

The amendment was read.

Senator Huffman moved to concur in the House amendment to **SB 1605**.

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

### **SENATE BILL 1088 WITH HOUSE AMENDMENT**

Senator Creighton called **SB 1088** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

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

Amend **SB 1088** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 11, Tax Code, is amended by adding Section 11.50 to read as follows:

Sec. 11.50. PROVISION OF NAMES OF INDIVIDUALS RECEIVING RESIDENCE HOMESTEAD EXEMPTION TO ANOTHER CHIEF APPRAISER.

(a) The chief appraiser of an appraisal district may request that the chief appraiser of another appraisal district provide to the requesting chief appraiser a list of the names of all individuals who currently receive an exemption for a residence homestead in the appraisal district for which the request is made.

(b) A chief appraiser who receives a request under Subsection (a) shall provide the list to the requesting chief appraiser as soon as practicable.

(c) A provision of law making information described by Subsection (a) confidential does not apply to the disclosure of that information under this section to another chief appraiser.

The amendment was read.

Senator Creighton moved to concur in the House amendment to **SB 1088**.

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

### **SENATE BILL 1094 WITH HOUSE AMENDMENT**

Senator Creighton called **SB 1094** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

#### **Amendment**

#### A BILL TO BE ENTITLED AN ACT

relating to the payment of certain education expenses using the state's programs for paying, prepaying, or saving toward the costs of attending an institution of higher education.

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

SECTION 1. Section 54.605(a), Education Code, is amended to read as follows:

(a) A prepaid tuition contract remains in effect after the program is terminated if, when the program is terminated, the beneficiary:

(1) has been accepted by or is enrolled in an institution of higher education, a private or independent institution of higher education, ~~or~~ a career school or college, or a registered apprenticeship program described by Section 54.619(i); or

(2) is projected to graduate from high school not later than the third anniversary of the date the program is terminated.

SECTION 2. Section 54.619, Education Code, is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding other provisions of this subchapter, any contract benefits purchased under this subchapter may be applied to the payment of tuition and required fees for a registered apprenticeship program as if the apprenticeship program were an institution of higher education or private or independent institution of higher education. On the purchaser's request, the board shall apply, in accordance with Section 54.628, any existing amount of prepaid tuition contract benefits to the payment of registered apprenticeship program tuition and required fees. The board is not responsible for the payment of registered apprenticeship program tuition and required fees in excess of that amount. The board may adopt rules as necessary to implement this subsection. In this subsection, "registered apprenticeship program" means an apprenticeship program that is registered and certified with the United States Department of Labor under Section 1 of the National Apprenticeship Act (29 U.S.C. Section 50 et seq.).

SECTION 3. Section 54.751, Education Code, is amended by amending Subdivisions (2) and (6) and adding Subdivision (9-a) to read as follows:

(2) "Beneficiary" means the person designated under a prepaid tuition contract as the person entitled to apply one or more tuition units purchased under the contract to the payment of the person's:

(A) undergraduate tuition and required fees at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, or accredited out-of-state institution of higher education; and

(B) registered apprenticeship program tuition and required fees.

(6) "Prepaid tuition contract" means a contract under which a person purchases from the board on behalf of a beneficiary one or more tuition units that the beneficiary is entitled to apply to the payment of the beneficiary's:

(A) undergraduate tuition and required fees at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, or accredited out-of-state institution of higher education; or

(B) registered apprenticeship program tuition and required fees.

(9-a) "Registered apprenticeship program" means an apprenticeship program that is registered and certified with the United States Department of Labor under Section 1 of the National Apprenticeship Act (29 U.S.C. Section 50 et seq.).

SECTION 4. Section 54.753(a), Education Code, is amended to read as follows:

(a) Under the program, a purchaser may prepay the costs of all or a portion of a beneficiary's undergraduate tuition and required fees at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, ~~or~~ accredited out-of-state institution of higher education, or registered apprenticeship program by entering into a prepaid tuition contract with the board to purchase one or more tuition units of a type described by this section at the applicable price established by the board for that type of unit for the year in which the unit is purchased. The portion of the beneficiary's undergraduate tuition and required fees for which a tuition unit may be redeemed at a particular general academic teaching institution or two-year institution of higher education is assigned to the tuition unit at the time of purchase, and the tuition unit may be redeemed to pay that portion of the tuition and fees at the general academic teaching institution or two-year institution of higher education in any academic year in which the unit is redeemed in accordance with this subchapter. The purchaser may purchase one type of unit or a combination of two or three types of units.

SECTION 5. Sections 54.754(a) and (d), Education Code, are amended to read as follows:

(a) In accordance with this subchapter, when a beneficiary under a prepaid tuition contract redeems one or more tuition units to pay costs of tuition and required fees, the board shall apply money in the fund, in the amount provided by Section 54.765 to pay all or the applicable portion of the costs of the beneficiary's tuition and required fees at the general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, ~~or~~ accredited out-of-state institution of higher education,

or registered apprenticeship program in which the beneficiary enrolls. Subject to Subsection (b)(2) and the other provisions of this section, a beneficiary may redeem any type of tuition unit for attendance at an institution, ~~[or]~~ unit, school, or program described by this section. A general academic teaching institution or two-year institution of higher education shall accept the amount transferred to the institution under Section 54.765(c) when the unit or units are redeemed as payment for all or the applicable portion of the beneficiary's tuition and required fees.

(d) If a beneficiary redeems fewer tuition units of the type or combination of types necessary to pay the total cost of the beneficiary's tuition and required fees at the general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, ~~[or]~~ accredited out-of-state institution of higher education, or registered apprenticeship program at which the beneficiary enrolls, the beneficiary is responsible for paying the amount of the difference between the amount of tuition and required fees for which the beneficiary pays through the redemption of one or more tuition units and the total cost of the beneficiary's tuition and required fees at the institution, ~~[or]~~ unit, school, or program.

SECTION 6. Section 54.765(f), Education Code, is amended to read as follows:

(f) When a beneficiary enrolls at a private or independent institution of higher education, medical and dental unit, career school, ~~[or]~~ accredited out-of-state institution of higher education, or registered apprenticeship program, on written authorization from the purchaser of the tuition unit or units for that beneficiary, the comptroller or the comptroller's authorized representative shall transfer to the institution the lesser of:

(1) an amount equal to the current cost of the tuition and required fees that would be covered by redemption of the number and type of tuition units the beneficiary is redeeming if the beneficiary were redeeming the unit or units at a general academic teaching institution or two-year institution of higher education as follows:

(A) for a Type I unit, at the general academic teaching institution that had the highest tuition and required fee cost;

(B) for a Type II unit, at a general academic teaching institution that had tuition and required fee cost at the weighted average; and

(C) for a Type III unit, at a two-year institution of higher education that had tuition and required fee cost at the weighted average; or

(2) an amount equal to the total purchase price of the tuition unit or units the beneficiary redeems for the semester or other academic term plus the portion of the total return on assets of the fund attributable to that amount.

SECTION 7. Section 54.767, Education Code, is amended to read as follows:

Sec. 54.767. USE OF FUND ASSETS. The assets of the fund may be used only to:

(1) pay the costs of program administration and operations;

(2) make payments to general academic teaching institutions, two-year institutions of higher education, private or independent institutions of higher education, medical and dental units, career schools, ~~and~~ accredited out-of-state institutions of higher education, and registered apprenticeship programs on behalf of beneficiaries; and

(3) make refunds under prepaid tuition contracts.

SECTION 8. Sections 54.769(b) and (c), Education Code, are amended to read as follows:

(b) The rights of a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary in and under a prepaid tuition contract and the payment of tuition and required fees for a beneficiary under a prepaid tuition contract to a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, ~~or~~ accredited out-of-state institution of higher education, or registered apprenticeship program under this chapter are exempt from attachment, levy, garnishment, execution, and seizure for the satisfaction of any debt, judgment, or claim against a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary.

(c) A claim or judgment against a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary does not impair or entitle the claim or judgment holder to assert or enforce a lien against:

(1) the rights of a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary in and under a prepaid tuition contract; or

(2) the right of a beneficiary to the payment of tuition and required fees to a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, ~~or~~ accredited out-of-state institution of higher education, or registered apprenticeship program under a prepaid tuition contract.

SECTION 9. Section 54.774(a), Education Code, is amended to read as follows:

(a) A prepaid tuition contract remains in effect after the program is terminated if, when the program is terminated, the beneficiary:

(1) has been accepted by or is enrolled at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, ~~or~~ accredited out-of-state institution of higher education, or registered apprenticeship program; or

(2) is projected to graduate from high school not later than the third anniversary of the date the program is terminated.

SECTION 10. Section 54.775(b), Education Code, is amended to read as follows:

(b) Notwithstanding Subsection (a), the board may release information described by that subsection to a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, ~~or~~ accredited out-of-state institution of higher education, or registered apprenticeship program at which a beneficiary may enroll or is enrolled. The institution, ~~unit, school, or program~~ shall keep the information confidential.

SECTION 11. Section 54.801(1), Education Code, is amended to read as follows:

(1) "Accredited out-of-state institution of higher education," "career school," "general academic teaching institution," "medical and dental unit," "private or independent institution of higher education," "registered apprenticeship program," and "two-year institution of higher education" have the meanings assigned by Section 54.751.

SECTION 12. Section 54.806(b), Education Code, is amended to read as follows:

(b) Notwithstanding Subsection (a), the board or program entity may release information described by Subsection (a) to the extent required by a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, ~~[or]~~ accredited out-of-state institution of higher education, or registered apprenticeship program at which a beneficiary may enroll or is enrolled. The institution, unit, ~~[or]~~ school, or program receiving information described by Subsection (a) shall keep the information confidential.

SECTION 13. The change in law made by this Act regarding the application of prepaid tuition contract benefits to the payment of tuition and required fees for a registered apprenticeship program applies to contract benefits purchased under Subchapters F and H, Chapter 54, Education Code, as amended by this Act, before, on, or after the effective date of this Act.

SECTION 14. This Act takes effect September 1, 2021.

The amendment was read.

Senator Creighton moved to concur in the House amendment to **SB 1094**.

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

### **SENATE BILL 1102 WITH HOUSE AMENDMENT**

Senator Creighton called **SB 1102** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

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

Amend **SB 1102** (house committee report) as follows:

(1) On page 1, strike "public junior college or public technical institute" and substitute "lower-division institution of higher education" in each of the following places it appears:

(A) on lines 12 and 13; and

(B) on line 18.

(2) On page 1, strike "public junior colleges or public technical institutes" and substitute "lower-division institutions of higher education" in each of the following places it appears:

(A) on lines 14 and 15; and

(B) on lines 19 and 20.

(3) On page 1, between lines 20 and 21, insert the following appropriately numbered subdivision and renumber subsequent subdivisions accordingly:

( ) "Lower-division institution of higher education" means a public junior college, public state college, or public technical institute.

(4) On page 2, line 27, strike "within the region" and substitute "except as necessary to accommodate regional demand".

(5) Strike "public junior colleges and public technical institutes" and substitute "lower-division institutions of higher education" in each of the following places it appears:

(A) page 3, lines 2 and 3; and

(B) page 5, lines 16 and 17.

(6) On page 4, line 25, strike "develop".

The amendment was read.

Senator Creighton moved to concur in the House amendment to **SB 1102**.

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

### SENATE BILL 1385 WITH HOUSE AMENDMENT

Senator Creighton called **SB 1385** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

#### Floor Amendment No. 1

Amend **SB 1385** (house committee printing) as follows:

(1) On page 3, line 5, strike "athlete agent or attorney" and substitute "attorney licensed to practice law in this state".

(2) On page 3, line 25, strike "athlete agent or attorney" and substitute "attorney licensed to practice law in this state".

(3) Strike added Section 51.9246(g)(3), Education Code (page 5, lines 11-15), and renumber the remaining subdivisions of Subsection (g) accordingly.

(4) Strike page 7, lines 2-7, and substitute the following:

(k) Nothing in this section may be construed as permitting an athlete agent to take any action prohibited under Section 2051.351, Occupations Code.

(5) Strike page 7, line 11, and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. This Act takes effect July 1, 2021, 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 to take effect July 1, 2021, this Act takes effect September 1, 2021.

(6) Renumber SECTIONS of the bill appropriately.

The amendment was read.

Senator Creighton moved to concur in the House amendment to **SB 1385**.

The motion prevailed by the following vote: Yeas 28, Nays 2, Present-not voting 1.



Yeas: Alvarado, Bettencourt, Birdwell, Blanco, Buckingham, Campbell, Creighton, Eckhardt, Gutierrez, Hall, Hancock, Hinojosa, Huffman, Johnson, Lucio, Menéndez, Miles, Nelson, Nichols, Paxton, Powell, Schwertner, Seliger, Springer, Taylor, West, Whitmire, Zaffirini.

Nays: Hughes, Perry.

Present-not voting: Kolkhorst.

### SENATE BILL 916 WITH HOUSE AMENDMENT

Senator Seliger called **SB 916** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

#### Amendment

#### A BILL TO BE ENTITLED AN ACT

relating to certain information regarding appraisal district noncompliance and property values in the Texas Department of Licensing and Regulation records of a professional property tax appraiser serving as chief appraiser for the district.

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

SECTION 1. Subchapter C, Chapter 1151, Occupations Code, is amended by adding Section 1151.109 to read as follows:

Sec. 1151.109. INFORMATION ON APPRAISAL DISTRICT REVIEWS. (a) The commission by rule shall require the department to include in the record of the registered professional appraiser who serves as chief appraiser for an appraisal district at the time the comptroller finalizes the biennial review of the appraisal district's performance under Section 5.102(c), Tax Code, an electronic link to:

(1) the comptroller's report for the review; and

(2) each property value study the comptroller conducts under Subchapter M, Chapter 403, Government Code, that is used in the review.

(b) An appraisal district may request from the department information on a registered professional appraiser whom the board of directors of the appraisal district is considering for appointment as chief appraiser of the appraisal district. The department shall inform the requestor of the status of any compliance efforts of an appraisal district under Section 5.102(d), Tax Code, for previous reviews in which the appraiser served as chief appraiser of that appraisal district.

SECTION 2. As soon as practicable after the effective date of this Act, the Texas Commission of Licensing and Regulation shall adopt rules to implement Section 1151.109, Occupations Code, as added by this Act.

SECTION 3. This Act takes effect September 1, 2021.

The amendment was read.

Senator Seliger moved to concur in the House amendment to **SB 916**.

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

### SENATE BILL 165 WITH HOUSE AMENDMENT

Senator Blanco called **SB 165** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

#### Floor Amendment No. 1

Amend **SB 165** (house committee printing) on page 2, line 17, by striking "[subdivision]" and substituting "of a duration that significantly affects the student's ability to participate in coursework, as determined in accordance with a rule adopted under this subsection for purposes of this subdivision".

The amendment was read.

Senator Blanco moved to concur in the House amendment to **SB 165**.

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

### SENATE BILL 1911 WITH HOUSE AMENDMENT

Senator Blanco called **SB 1911** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

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

Amend **SB 1911** on third reading as follows:

On page 1, line 13, between "contacted" and "that", insert "by a managed care organization or health plan provider".

The amendment was read.

Senator Blanco moved to concur in the House amendment to **SB 1911**.

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

### SENATE BILL 219 WITH HOUSE AMENDMENTS

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

The President Pro Tempore laid the bill and the House amendments before the Senate.

#### Amendment

#### A BILL TO BE ENTITLED AN ACT

relating to civil liability and responsibility for the consequences of defects in the plans, specifications, or related documents for the construction or repair of an improvement to real property.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 59 to read as follows:

CHAPTER 59. RESPONSIBILITY FOR DEFECTS IN PLANS AND SPECIFICATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 59.001. DEFINITIONS. In this chapter:

(1) "Construction" includes:

(A) the initial construction of an improvement to real property;

(B) the construction of an addition to an improvement to real property;

or

(C) the repair, alteration, or remodeling of an improvement to real

property.

(2) "Contractor" means a person engaged in the business of developing, constructing, fabricating, repairing, altering, or remodeling improvements to real property.

(3) "Critical infrastructure facility" includes:

(A) a petroleum or alumina refinery;

(B) an electrical power generating facility, substation, switching station,

or control center;

(C) a chemical, polymer, or rubber manufacturing facility;

(D) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(E) a natural gas compressor station;

(F) a liquid natural gas terminal or storage facility;

(G) a telecommunications central switching office or any structure used as part of a system to provide wired or wireless telecommunications services;

(H) a port, railroad switching yard, trucking terminal, or other freight transportation facility;

(I) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;

(J) a transmission facility used by a federally licensed radio or television station;

(K) a steelmaking facility that uses an electric arc furnace to make steel;

(L) a dam that is classified as a high hazard by the Texas Commission on Environmental Quality;

(M) a concentrated animal feeding operation, as defined by Section 26.048, Water Code;

(N) any portion of an aboveground oil, gas, or chemical pipeline;

(O) an oil or gas drilling site;

(P) a group of tanks used to store crude oil, such as a tank battery;

(Q) an oil, gas, or chemical production facility;

(R) an oil or gas wellhead;

(S) any oil and gas facility that has an active flare;

(T) pipelines and pipeline appurtenances or facilities, including pipes, valves, meters, pumps, compressors, treating and processing facilities, cathodic protection facilities, and any other equipment, facilities, devices, structures, and buildings used or intended for use in the gathering, transportation, treating, storage, or

processing of CO<sub>2</sub>, oil, gas, or other minerals, and the liquefied or gaseous substances, constituents, products, or mixtures derived from those minerals through refining, processing, or other methods;

(U) utility-scale equipment or facilities to transmit or distribute electricity;

(V) utility-scale water or wastewater storage, treatment, or transmission facilities;

(W) facilities used to manufacture or produce transportation fuels and similar products, including gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, propane, ethanol, biodiesel, and renewable diesel; and

(X) commercial airport facilities used for the landing, parking, refueling, shelter, or takeoff of aircraft, maintenance or servicing of aircraft, aircraft equipment storage, or navigation of aircraft.

(4) "Design" means work that is required under Title 6, Occupations Code, to be performed by or under the supervision of a person licensed or registered under the statute.

(5) "Design-build contract" means a contract in which a contractor agrees to:

(A) construct, repair, alter, or remodel an improvement to real property;

and

(B) be responsible for the development of plans, specifications, or other design documents used by the contractor to construct, repair, alter, or remodel the improvement.

(6) "Engineering, procurement, and construction contract" means a construction contract where the contractor is responsible for all of the engineering, procurement, and construction activities to deliver the completed project.

Sec. 59.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a contract for the construction or repair of an improvement to real property.

(b) This chapter does not apply to a contract entered into by a person for the construction or repair of a critical infrastructure facility owned or operated by the person or any building, structure, improvement, appurtenance, or other facility owned by the person that is necessary to the operation of and directly related to the critical infrastructure facility. For purposes of this subsection, "person" has the meaning assigned by Section 311.005, Government Code, and includes a parent, subsidiary, affiliated entity, joint venture partner, or owner of the person.

(c) Except as provided by Section 59.052, this chapter does not apply to the construction, repair, alteration, or remodeling of an improvement to real property if:

(1) the construction, repair, alteration, or remodeling is performed under a design-build contract and the part of the plans, specifications, or other design documents for which the contractor is responsible under the contract is the part alleged to be defective; or

(2) the construction, repair, alteration, or remodeling is performed under an engineering, procurement, and construction contract and the part of the plans, specifications, or other design documents for which the contractor is responsible under the contract is the part alleged to be defective.

(d) Except as provided by Section 59.052, this chapter does not apply to the portion of a contract between a person and a contractor under which the contractor agrees to provide input and guidance on plans, specifications, or other design documents to the extent that:

(1) the contractor's input and guidance are provided as the signed and sealed work product of a person licensed or registered under Title 6, Occupations Code; and

(2) the work product is incorporated into the plans, specifications, or other design documents used in construction.

Sec. 59.003. WAIVER PROHIBITED. This chapter may not be waived. A purported waiver of this chapter in violation of this section is void.

#### SUBCHAPTER B. CONTRACTOR RESPONSIBILITY

Sec. 59.051. LIMITATION ON CONTRACTOR'S LIABILITY AND RESPONSIBILITY FOR CERTAIN DEFECTS. (a) A contractor is not responsible for the consequences of design defects in and may not warranty the accuracy, adequacy, sufficiency, or suitability of plans, specifications, or other design documents provided to the contractor by a person other than the contractor's agents, contractors, fabricators, or suppliers, or its consultants, of any tier.

(b) A contractor must, within a reasonable time of learning of a defect, inaccuracy, inadequacy, or insufficiency in the plans, specifications, or other design documents, disclose in writing to the person with whom the contractor enters into a contract the existence of any known defect in the plans, specifications, or other design documents that is discovered by the contractor, or that reasonably should have been discovered by the contractor using ordinary diligence, before or during construction. In this subsection, ordinary diligence means the observations of the plans, specifications, or other design documents or the improvement to real property that a contractor would make in the reasonable preparation of a bid or fulfillment of its scope of work under normal circumstances. Ordinary diligence does not require that the contractor engage a person licensed or registered under Title 6, Occupations Code, or any other person with specialized skills. A disclosure under this subsection is made in the contractor's capacity as contractor and not as a licensed professional under Title 6, Occupations Code.

(c) A contractor who fails to disclose a defect as required by Subsection (b) may be liable for the consequences of defects that result from the failure to disclose.

Sec. 59.052. STANDARD OF CARE FOR CERTAIN DESIGNS. Design services provided under a contract described by Section 59.002(c) or (d) are subject to the same standard of care requirements provided in Section 130.0021, Civil Practice and Remedies Code.

SECTION 2. The heading to Chapter 130, Civil Practice and Remedies Code, is amended to read as follows:

#### CHAPTER 130. LIABILITY PROVISIONS [~~INDEMNIFICATION~~] IN CERTAIN CONSTRUCTION CONTRACTS

SECTION 3. Chapter 130, Civil Practice and Remedies Code, is amended by adding Section 130.0021 to read as follows:

Sec. 130.0021. ARCHITECT'S OR ENGINEER'S STANDARD OF CARE. (a) A construction contract for architectural or engineering services or a contract related to the construction or repair of an improvement to real property that contains

architectural or engineering services as a component part must require that the architectural or engineering services be performed with the professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license.

(b) If a contract described by Subsection (a) contains a provision establishing a different standard of care than the standard described by Subsection (a):

(1) the provision is void and unenforceable; and

(2) the standard of care described by Subsection (a) applies to the performance of the architectural or engineering services.

(c) Section 130.004 does not limit the applicability of this section.

SECTION 4. Section 130.004, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 130.004. OWNER OF INTEREST IN REAL PROPERTY. (a) Except as provided by Section 130.002(b) or 130.0021, this chapter does not apply to an owner of an interest in real property or persons employed solely by that owner.

(b) Except as provided by Section 130.002(b) or 130.0021, this chapter does not prohibit or make void or unenforceable a covenant or promise to:

(1) indemnify or hold harmless an owner of an interest in real property and persons employed solely by that owner; or

(2) allocate, release, liquidate, limit, or exclude liability in connection with a construction contract between an owner or other person for whom a construction contract is being performed and a registered architect or licensed engineer.

SECTION 5. (a) 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 the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose.

(b) An original contract for the construction or repair of an improvement to real property with the owner of an interest in real property that is entered into before the effective date of this Act, and a subcontract or purchase order for providing labor or materials associated with that original contract, whether the subcontract or purchase order is entered into before, on, or after the effective date of this Act, is governed by the law in effect when the original contract was entered into, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2021.

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

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

(1) On page 8, line 17, strike "The changes" and substitute "Except as provided by Subsection (c) of this section, the changes".

(2) On page 9, between lines 3 and 4, insert the following:

(c) The changes in law made by this Act to Section 473.003, Transportation Code, as added by Chapter 382 (**HB 2899**), Acts of the 86th Legislature, Regular Session, 2019, are intended to clarify existing law and apply to a contract entered into before, on, or after the effective date of this Act.

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

SECTION \_\_\_\_\_. Section 473.003, Transportation Code, as added by Chapter 382 (**HB 2899**), Acts of the 86th Legislature, Regular Session, 2019, is amended by adding Subsection (c-1) to read as follows:

(c-1) This section does not apply to a design-build contract.

The amendments were read.

Senator Hughes moved to concur in the House amendments to **SB 219**.

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

Yeas: Alvarado, Bettencourt, Birdwell, Blanco, Buckingham, Campbell, Creighton, Hall, Hancock, Hinojosa, Huffman, Hughes, Johnson, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Paxton, Perry, Powell, Schwertner, Seliger, Springer, Taylor, West, Whitmire, Zaffirini.

Nays: Eckhardt, Gutierrez.

### SENATE BILL 445 WITH HOUSE AMENDMENT

Senator Hughes called **SB 445** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

#### Amendment

#### A BILL TO BE ENTITLED AN ACT

relating to the use of a flashing warning signal light and certain other equipment by a person operating a school bus.

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

SECTION 1. Section 547.701, Transportation Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) When a school bus is being stopped or is stopped on a highway to permit students to board or exit the bus, the operator of the bus shall activate all flashing warning signal lights and other equipment on the bus designed to warn other drivers that the bus is stopping to load or unload children.

(c-1) A person may not operate ~~such~~ a light or other equipment described by Subsection (c) except when a school ~~the~~ bus is being stopped or is stopped on a highway to:

(1) permit a student ~~students~~ to board or exit the bus; or

(2) distribute to a student or the parent or guardian of a student:

(A) food; or

(B) technological equipment for use by the student for educational

purposes.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2021.

The amendment was read.

Senator Hughes moved to concur in the House amendment to **SB 445**.

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

**SENATE BILL 185 WITH HOUSE AMENDMENT**

Senator Perry called **SB 185** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

**Amendment**

A BILL TO BE ENTITLED  
AN ACT

relating to the time for entering a final order in certain suits affecting the parent-child relationship involving the Department of Family and Protective Services.

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

SECTION 1. Subchapter E, Chapter 263, Family Code, is amended by adding Section 263.4011 to read as follows:

Sec. 263.4011. RENDERING FINAL ORDER; EXTENSION. (a) On timely commencement of the trial on the merits under Section 263.401, the court shall render a final order not later than the 90th day after the date the trial commences.

(b) The 90-day period for rendering a final order under Subsection (a) is not tolled for any recess during the trial.

(c) The court may extend the 90-day period under Subsection (a) for the period the court determines necessary if, after a hearing, the court finds good cause for the extension. If the court grants a good cause extension under this subsection, the court shall render a written order specifying:

(1) the grounds on which the extension is granted; and

(2) the length of the extension.

(d) A party may file a mandamus proceeding if the court fails to render a final order within the time required by this section.

SECTION 2. Section 263.4011, Family Code, as added by this Act, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before that date is governed by the law in effect on the date the suit was filed, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2021.

The amendment was read.

Senator Perry 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 President Pro Tempore asked if there were any motions to instruct the conference committee on **SB 185** before appointment.

There were no motions offered.

The President Pro Tempore announced the appointment of the following conferees on the part of the Senate: Senators Perry, Chair; Kolkhorst, Blanco, Powell, and Birdwell.

### **SENATE BILL 2185 WITH HOUSE AMENDMENTS**

Senator Hinojosa called **SB 2185** from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the House amendments before the Senate.

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

Amend **SB 2185** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. In this Act, "district" means the Hidalgo County Water Improvement District No. 3.

SECTION 2. GENERAL MANAGER. The general manager shall be an employee of the district. The general manager serves at the pleasure of and reports only to the board. The general manager may not serve as a director on the board of directors of the district.

SECTION 3. EDUCATION PROGRAM. (a) The district's board of directors shall establish a program of education for the district's directors that includes information on:

- (1) the history of the district;
- (2) the district's statutory authority;
- (3) laws applicable to the district, including the requirements of Chapters 551 and 552, Government Code;
- (4) relevant legal developments related to water district governance;
- (5) the duties and responsibilities of the district's board of directors;
- (6) conflict of interest laws and other laws related to public officials;
- (7) any applicable ethics policies adopted by the Texas Commission on Environmental Quality or the Texas Ethics Commission.

(b) The district shall pay any costs associated with the development of the education program from district revenue.

(c) The education program may include training provided by an organization offering courses that have been approved by the Texas Commission on Environmental Quality.

(d) The district's board of directors may adopt bylaws modifying the education program as necessary to meet district needs.

SECTION 4. EDUCATION FOR DIRECTORS. (a) Each director of the district shall complete the education program established under Section 3 of this Act before the first anniversary of the date on which the director was appointed or elected. A director serving on the district's board of directors on the effective date of this Act shall complete the education program not later than September 1, 2022.

(b) The district shall reimburse a director of the district for the reasonable expenses incurred by the director in attending the education program.

(c) A director of the district who is elected to serve a subsequent term shall fulfill the education requirements specified by district bylaws.

**SECTION 5. PROHIBITED CONDUCT FOR DIRECTORS AND DISTRICT EMPLOYEES.** A director of the district or a district employee may not:

(1) accept or solicit any gift, favor, or service that:

(A) might reasonably influence the director or employee in the discharge of an official duty; or

(B) the director or employee knows or should know is offered with the intent to influence the director's or employee's official conduct;

(2) accept other employment or engage in a business or professional activity that the director or employee might reasonably expect would require or induce the director or employee to disclose confidential information acquired in the course of the director's or employee's duties under this chapter;

(3) accept other employment or compensation that could reasonably be expected to impair the director's or employee's independent judgment in the performance of the director's or employee's duties under this chapter;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the director's or employee's private interest and the interest of the district;

(5) intentionally or knowingly solicit, accept, or agree to accept a benefit for the director's or employee's exercise of powers under this chapter or performance of duties under this chapter in favor of a third party; or

(6) have a personal interest in an agreement executed by the district.

**SECTION 6. SEARCHABLE DISTRICT EXPENDITURE DATABASE.** (a) The district shall establish and post on the district's Internet website a database of district check register reporters, including district expenditures and contracts. The database must include the amount, date, description, payor, and payee of the expenditures and, if applicable, parties to the contract.

(b) The district may not include in the database developed under Subsection (a) a district employee's salary or personal identifying information, as defined by Section 521.002, Business & Commerce Code.

(c) The district shall prominently display a link to the database established under this section on the district's Internet website. The information provided in the district check register reports must be updated monthly.

(d) The district shall keep in the database information required by this section related to an adopted budget until the third anniversary of the date the budget was adopted.

**SECTION 7.** This Act takes effect September 1, 2021.

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

Amend **SB 2185** on third reading as follows:

(1) In SECTION 6(a), as added by Amendment No. 1 by Canales, strike "reporters" and substitute "reports".

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

SECTION \_\_\_\_\_. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2127 to read as follows:

Sec. 49.2127. PIPELINE FEES AND REQUIREMENTS IMPOSED BY CERTAIN DISTRICTS. (a) In this section, "retail public utility" has the meaning assigned by Section 13.002.

(b) This section applies only to a district whose territory is located wholly or partly in a county:

(1) located on the Gulf of Mexico and an international border; or

(2) adjacent to a county described by Subdivision (1).

(c) Notwithstanding Section 49.002, this section prevails over a special law governing a district.

(d) A district may not impose on a retail public utility that proposes to construct a water or sewer pipeline or associated infrastructure in the district's service area:

(1) requirements for constructing the pipeline that are unduly burdensome;  
or

(2) a fee that is greater than the actual, reasonable, and documented costs incurred by the district for review, legal services, engineering services, inspection, construction, and repair associated with the retail public utility construction, and any other related costs incurred by the district in association with the retail public utility construction.

SECTION \_\_\_\_\_. CONDUCT OF ELECTIONS. The district shall publish once before each election to elect members of the board of directors of the district the procedure for conducting an election to elect members of the board of directors of the district in a newspaper of general circulation in each municipality or county in which the district or a portion of the district is located.

The amendments were read.

Senator Hinojosa 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 President Pro Tempore asked if there were any motions to instruct the conference committee on **SB 2185** before appointment.

There were no motions offered.

The President Pro Tempore announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Bettencourt, Campbell, Perry, and Zaffirini.

### CONFERENCE COMMITTEE ON SENATE BILL 20 DISCHARGED

On motion of Senator Campbell and by unanimous consent, the Senate conferees on **SB 20** were discharged.

Question: Shall the Senate concur in the House amendment to **SB 20**?

Senator Campbell moved to concur in the House amendment to **SB 20**.

Senator Campbell withdrew the motion to concur.

Senator Campbell again moved to concur in the House amendment to **SB 20**.

The motion prevailed by the following vote: Yeas 22, Nays 9.

Yeas: Alvarado, Bettencourt, Blanco, Buckingham, Campbell, Creighton, Hall, Hancock, Hinojosa, Huffman, Hughes, Johnson, Kolkhorst, Lucio, Menéndez, Nelson, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Birdwell, Eckhardt, Gutierrez, Miles, Nichols, Powell, West, Whitmire, Zaffirini.

### REMARKS ORDERED PRINTED

On motion of Senator Campbell and by unanimous consent, the remarks by Senators Menéndez, Hinojosa, Johnson, and Campbell regarding **SB 20** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**President Pro Tempore:** Senator Menéndez, for what purpose?

**Senator Menéndez:** Mr. President, I'd like to ask Senator Campbell for the purposes of establishing some legislative intent.

**President Pro Tempore:** Do you yield, Senator Campbell?

**Senator Campbell:** I do.

**President Pro Tempore:** You're recognized, Senator Menéndez.

**Senator Menéndez:** Thank you very much, Mr. President. Senator Campbell, first of all, thank you for agreeing to have some conversation about Senate Bill 20 and I, like I said to you earlier, I completely agree with what your bill is trying to do. The last thing we need is more stolen handguns, long guns, any kind of gun out in the state, and your bill simply says, as I understood it, that if I were traveling throughout the state and I had a handgun that I could put it in my luggage, my bag, carry-on, whatever, carry, according to the instructions of the hotel, you've stated that they can tell you that they don't want to see it exposed if they, you've mentioned that earlier.

**Senator Campbell:** Correct.

**Senator Menéndez:** But what your bill is not, by the replacement of the word "firearm," the amendment that was done in the House, what you understand is that, that word "firearm" only means guns that you can lawfully carry today. That's, it's not meant for federally restricted weapons that may be used in theater of war or some other things. That, is that your understanding?

**Senator Campbell:** That's exactly correct.

**Senator Menéndez:** So, I will, I just want to make sure everybody understands. We take a deep breath and many people in this state travel to go bird hunting, dove hunting. San Antonio hosts a nationally recognized skeet shooting tournament, and there have many times where people have had their vehicles broken into and had—

**Senator Campbell:** Correct.

**Senator Menéndez:** —their weapons stolen and what you're saying is, they should have the right to be able to take their firearm into the hotel as long as they do within the guidelines that the hotel prescribes. Is that correct?

**Senator Campbell:** That is correct. The hotel can request, mandate, post signage that says they can carry their long guns in a ba— that they must carry long guns in a bag and their ammunition in a bag or a case.

**Senator Menéndez:** That the bag, the ammunition separate from the long gun, but it's in a case or bag—

**Senator Campbell:** Yes.

**Senator Menéndez:** —so that it doesn't frighten some people or make them uncomfortable. Because what, the last thing we need is, is to say that you come in with your guns loaded and ready to go and all that or have one drop and accidentally discharge.

**Senator Campbell:** Yes.

**Senator Menéndez:** I feel more comfortable with your amendment, and I, as you can understand the conversation you and I had about your bill when we first, we first discussed it.

**Senator Campbell:** Yes.

**Senator Menéndez:** The amendment changed it—

**Senator Campbell:** Yes.

**Senator Menéndez:** —but as long as it's within these parameters that we've discussed, I can feel comfortable with your concurrence with the amendment, and I appreciate you taking my questions.

**Senator Campbell:** Thank you and thank you, Senator Menéndez. I think that clarity was needed and welcomed.

**Senator Menéndez:** Thank you very much. Thank you, Mr. President.

**President Pro Tempore:** Senator Hinojosa, for what purpose?

**Senator Hinojosa:** Will the Senator Campbell yield?

**Senator Campbell:** Yes.

**President Pro Tempore:** Do you yield, Senator Campbell?

**Senator Campbell:** Yes, Sir, I do.

**President Pro Tempore:** Senator Hinojosa, you're recognized.

**Senator Hinojosa:** And, Senator Campbell, we also had a very, I'm on the conference committee, and so we had a very detailed discussion on some of the concerns that been expressed to us by Chamber of Commerces and the hotels association. And for us, one of the main concerns has been, and we don't have any issues with the people that carry sporting guns and traveling and contests and what have you. The issue is, that came up, what happened up in Las Vegas.

**Senator Campbell:** Yes.

**Senator Hinojosa:** And I don't know that any type of rule, regulation, or law that we put in place will be able to stop someone to sneak in a M16 or AR-15 they can use for a mass shooting like what happened in Las Vegas.

**Senator Campbell:** You know, there's not a law out there that will stop a criminal or stop a person from doing something illegally with the malicious intent to harm anybody.

**Senator Hinojosa:** And most people—

**Senator Campbell:** You're right.

**Senator Hinojosa:** —and most people will abide by any guidelines that are set by the hotel in terms of sporting guns or traveling with long guns and, obviously, our intent initially was just the folks on the handguns while are for self defense and self protection. But we also know that many people have rifles, shotguns in their vehicles—

**Senator Campbell:** Yes.

**Senator Hinojosa:** —and they are stolen, and I assume and I expect those people would comply with any rules, regulations, and guidelines that are set by the hotel.

**Senator Campbell:** Yes, yes. I agree with you, Sir.

**Senator Hinojosa:** Thank you, Senator Campbell, for answering my questions.

**Senator Campbell:** Thank you for making good points and asking the question.

**President Pro Tempore:** Members, you've heard the motion. Secretary, oh, I'm sorry. Senator Johnson, just got your light. You're recognized, or for what purpose Senator Johnson?

**Senator Johnson:** Question of the author.

**Senator Campbell:** Yes.

**President Pro Tempore:** Senator Campbell, do you yield?

**Senator Campbell:** Yes.

**President Pro Tempore:** You're recognized, Senator Johnson.

**Senator Johnson:** Thank you, Mr. President, and thank you, Senator Campbell, for working with us to try to clarify the legislative intent of this, and I just want, think it needs to be extra, extra clear. I'm looking at the, the Penal Code, Section 46.01, the definition section which defines a firearm. Your intent with this bill is basically to allow long guns, people who are going hunting, competitions, to be able to carry those and lock them up if they need to lock them up. Right?

**Senator Campbell:** Correct.

**Senator Johnson:** It's not to have machine guns in cars. Or is it?

**Senator Campbell:** No—

**Senator Johnson:** Okay.

**Senator Campbell:** —machine guns, number one, are illegal and any fully automatic is illegal.

**Senator Johnson:** Well, they're legal under certain licensing schemes. Correct?

**Senator Campbell:** Yes, under certain, very difficult to get licenses.

**Senator Johnson:** And your bill is not intended to allow people with those very difficult to get licenses to bring their machine gun that's licensed to their hotel. Or is it?

**Senator Campbell:** No, it is not.

**Senator Johnson:** Okay, and for the benefit of everybody concerned it's not, we are going through this exercise.

**Senator Campbell:** Yes.

**Senator Johnson:** Is it intended to allow people to carry any sort of weapon that's capable of firing armor-piercing ammunition as defined under the Texas Penal Code, Section 46.01, Subsection 12?

**Senator Campbell:** No, no armor-piercing, no chemical dispensing device, no zip guns, no tire deflation device, let's see, no explosive weapons, no machine guns, no short barrel firearms.

**Senator Johnson:** Thank you, Senator Campbell. I believe your intent is very clear.

**Senator Campbell:** Thank you and thank you for clarity. I appreciate, I think that's needed, so thank you.

**(President in Chair)**

### **SENATE BILL 14 WITH HOUSE AMENDMENTS**

Senator Creighton called **SB 14** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

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

Amend **SB 14** (house committee report) in SECTION 1 of the bill, in added Section 83.002(c), Labor Code (page 2, lines 3-17), by inserting the following appropriately numbered subdivision and renumbering subsequent subdivisions accordingly:

( ) employment and safety protections afforded by state and federal law to employees and prospective employees;

#### **Floor Amendment No. 2**

Amend **SB 14** (house committee report) in SECTION 1 of the bill, in added Section 83.002(c), Labor Code, by striking Subdivision (2) (page 2, lines 5-7), substituting the following appropriately numbered subdivisions, and renumbering subsequent subdivisions accordingly:

( ) the authority of a municipality or county to negotiate the terms of employment with employees of the municipality or county, or the employees' designated bargaining agent;

( ) an ordinance, order, rule, regulation, or policy relating to terms of employment for employees of a municipality or county, regardless of whether the ordinance, order, rule, regulation, or policy is adopted before, on, or after September 1, 2021;

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

Amend **SB 14** (house committee report) in SECTION 1 of the bill, in added Section 83.002(c), Labor Code (page 2, lines 3-17), by inserting the following appropriately numbered subdivision and renumbering subsequent subdivisions accordingly:

( ) an ordinance, order, rule, regulation, or policy that requires rest breaks or water breaks for employees, regardless of whether the ordinance, order, rule, regulation, or policy is adopted before, on, or after September 1, 2021;

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

Amend **SB 14** (house committee report) in SECTION 1 of the bill, in added Section 83.002(c), Labor Code (page 2, lines 3-17), by inserting the following appropriately numbered subdivision and renumbering subsequent subdivisions accordingly:

( ) an ordinance, order, rule, regulation, or policy limiting or prohibiting an employer from including a question regarding a job applicant's criminal history record information on an initial employment application form, provided that the ordinance, order, rule, regulation, or policy:

(A) does not apply to an applicant for a position for which consideration of criminal history record information is required by law; and

(B) clearly allows an employer to inquire into and consider an applicant's criminal history record information once the employer has determined that the applicant is otherwise qualified and has conditionally offered the applicant employment or has invited the applicant to an interview;

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

Amend **SB 14** (house committee report) on page 1, by striking lines 23 and 24 and substituting "or scheduling practices."

### **Floor Amendment No. 16**

Amend **SB 14** (house committee report) in SECTION 1 of the bill, in added Section 83.002(c), Labor Code (page 2, lines 3-17), by inserting the following appropriately numbered subdivision and renumbering subsequent subdivisions accordingly:

( ) an ordinance, order, rule, regulation, or policy that prohibits discrimination on the basis of hair style, hair texture, or hair type, regardless of whether the ordinance, order, rule, regulation, or policy is adopted before, on, or after September 1, 2021;



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

Amend **SB 14** on third reading, as amended by Amendment No. 15 by Bowers adding a subdivision to added Section 81.002(c), Labor Code, by striking in that subdivision "hair style, hair texture, or hair type" and substituting "hair texture or a protective hair style, including braids, locs, and twists, commonly or historically associated with race".

The amendments were read.

Senator Creighton 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 President asked if there were any motions to instruct the conference committee on **SB 14** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Creighton, Chair; Hancock, Campbell, Lucio, and Taylor.

**CONFERENCE COMMITTEE ON HOUSE BILL 3476**

Senator Bettencourt 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 3476** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3476** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Bettencourt, Chair; Perry, Springer, Creighton, and Gutierrez.

**SENATE BILL 69 WITH HOUSE AMENDMENT**

Senator Miles called **SB 69** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 69** (house committee printing) as follows:

- (1) On line 6, strike "Article 2.33" and substitute "Articles 2.1387 and 2.33".
- (2) Between lines 6 and 7, insert the following:

Art. 2.1387. INTERVENTION REQUIRED FOR EXCESSIVE FORCE; REPORT REQUIRED. (a) A peace officer has a duty to intervene to stop or prevent another peace officer from using force against a person suspected of committing an offense if:

(1) the amount of force exceeds that which is reasonable under the circumstances; and

(2) the officer knows or should know that the other officer's use of force:

(A) violates state or federal law;

(B) puts a person at risk of bodily injury, as that term is defined by Section 1.07, Penal Code, and is not immediately necessary to avoid imminent bodily injury to a peace officer or other person; and

(C) is not required to apprehend the person suspected of committing an offense.

(b) A peace officer who witnesses the use of excessive force by another peace officer shall promptly make a detailed report of the incident and deliver the report to the supervisor of the peace officer making the report.

The amendment was read.

Senator Miles moved to concur in the House amendment to **SB 69**.

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

### **SENATE BILL 25 WITH HOUSE AMENDMENTS**

Senator Kolkhorst called **SB 25** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Amendment**

#### A BILL TO BE ENTITLED AN ACT

relating to the right of certain residents to designate an essential caregiver for in-person visitation.

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

SECTION 1. It is the intent of the legislature to ensure that residents of long-term care facilities and other residences have a guaranteed right to visitation by family members, friends, caregivers, and other individuals. The legislature expects facilities and program providers to ensure that the guaranteed visitation rights are available to residents every day of each year, consistent with existing resident rights. The legislature intends for facilities and program providers to temporarily limit a resident's guaranteed visitation rights to in-person visitation by essential caregivers only during a declared public health emergency.

SECTION 2. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 260B to read as follows:

#### CHAPTER 260B. RIGHT TO ESSENTIAL CAREGIVER VISITS FOR CERTAIN RESIDENTS

Sec. 260B.0001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Essential caregiver" means a family member, friend, guardian, or other individual selected by a resident, resident's guardian, or resident's legally authorized representative for in-person visits.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "Facility" means:

(A) a nursing facility licensed under Chapter 242;

(B) an assisted living facility licensed under Chapter 247; or

(C) an intermediate care facility for individuals with an intellectual disability licensed under Chapter 252.

(5) "Program provider" means a person that provides services through the home and community-based services (HCS) waiver program in a residence.

(6) "Residence" means a three-person or four-person residence, as defined by the home and community-based services (HCS) waiver program billing guidelines, that is leased or owned by a program provider. The term does not include a host home or companion care.

(7) "Resident" means:

(A) an individual, including a patient, who resides in a facility; or

(B) an individual enrolled in the home and community-based services (HCS) waiver program who resides in a residence.

Sec. 260B.0002. RESIDENT'S RIGHT TO ESSENTIAL CAREGIVER VISITS. (a) A resident, resident's guardian, or resident's legally authorized representative has the right to designate an essential caregiver with whom the facility or program provider may not prohibit in-person visitation.

(b) Notwithstanding Subsection (a), the executive commissioner by rule shall develop guidelines to assist facilities and program providers in establishing essential caregiver visitation policies and procedures. The guidelines must require the facilities and program providers to:

(1) allow a resident, resident's guardian, or resident's legally authorized representative to designate for in-person visitation an essential caregiver in the same manner that a resident would designate a power of attorney;

(2) establish a visitation schedule allowing the essential caregiver to visit the resident for at least two hours each day;

(3) establish procedures to enable physical contact between the resident and essential caregiver; and

(4) obtain the signature of the essential caregiver certifying that the caregiver will follow the facility's or program provider's safety protocols and any other rules adopted under this section.

(c) A facility or program provider may revoke an individual's designation as an essential caregiver if the caregiver violates the facility's or provider's safety protocols or rules adopted under this section. If a facility or program provider revokes an individual's designation as an essential caregiver under this subsection, the resident, resident's guardian, or resident's legally authorized representative has the right to immediately designate another individual as the resident's essential caregiver.

(d) Safety protocols adopted by a facility or program provider for an essential caregiver under this section may not be more stringent than safety protocols for the staff of the facility or residence.

(e) A facility or program provider may petition the commission to suspend in-person essential caregiver visits for not more than seven days if in-person visitation poses a serious community health risk. The commission may deny the facility's or program provider's request to suspend in-person essential caregiver visitation if the commission determines that in-person visitation does not pose a serious community health risk. A facility or program provider shall request an extension from the commission to suspend in-person essential caregiver visitation for more than seven days. The commission may not approve an extension under this subsection for a period that exceeds seven days, and a facility or program provider must separately request each extension. A facility or program provider may not suspend in-person essential caregiver visitation for more than 14 days in any year.

(f) This section may not be construed as requiring an essential caregiver to provide necessary care to a resident, and a facility or program provider may not require an essential caregiver to provide necessary care.

SECTION 3. Chapter 555, Health and Safety Code, is amended by adding Subchapter F to read as follows:

#### SUBCHAPTER F. RIGHT TO ESSENTIAL CAREGIVER VISITS

Sec. 555.201. DEFINITION. In this chapter, "essential caregiver" means a family member, friend, guardian, or other individual selected by a resident, resident's guardian, or resident's legally authorized representative for in-person visits.

#### Sec. 555.202. RESIDENT'S RIGHT TO ESSENTIAL CAREGIVER VISITS.

(a) A resident of a state supported living center, the resident's guardian, or the resident's legally authorized representative has the right to designate an essential caregiver with whom the center may not prohibit in-person visitation.

(b) Notwithstanding Subsection (a), the executive commissioner by rule shall develop guidelines to assist state supported living centers in establishing essential caregiver visitation policies and procedures. The guidelines must require the centers to:

(1) allow a resident, resident's guardian, or resident's legally authorized representative to designate for in-person visitation an essential caregiver;

(2) establish a visitation schedule allowing the essential caregiver to visit the resident for at least two hours each day;

(3) establish procedures to enable physical contact between the resident and essential caregiver; and

(4) obtain the signature of the essential caregiver certifying that the caregiver will follow the center's safety protocols and any other rules adopted under this section.

(c) A state supported living center may revoke an individual's designation as an essential caregiver if the essential caregiver violates the center's safety protocols or rules adopted under this section. If a state supported living center revokes an individual's designation as an essential caregiver under this subsection, the resident, resident's guardian, or resident's legally authorized representative has the right to immediately designate another individual as the resident's essential caregiver.

(d) Safety protocols adopted by a state supported living center for an essential caregiver under this section may not be more stringent than safety protocols for center staff.

(e) A state supported living center may petition the commission to suspend in-person essential caregiver visits for not more than seven days if in-person visitation poses a serious community health risk. The commission may deny the state supported living center's request to suspend in-person essential caregiver visitation if the commission determines that in-person visitation does not pose a serious community health risk. A state supported living center shall request an extension from the commission to suspend in-person essential caregiver visitation for more than seven days. The commission may not approve an extension under this subsection for a period that exceeds seven days, and a facility or program provider must separately request each extension. A state supported living center may not suspend in-person essential caregiver visitation for more than 14 days in any year.

(f) This section may not be construed as requiring an essential caregiver to provide necessary care to a resident, and a state supported living center may not require an essential caregiver to provide necessary care.

SECTION 4. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall prescribe the guidelines required by Sections 260B.0002 and 555.202, Health and Safety Code, as added by this Act.

SECTION 5. 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 6. This Act takes effect September 1, 2021.

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

Amend **CSSB 25** (house committee printing) as follows:

- (1) On page 4, line 16, strike "shall" and substitute "may".
- (2) On page 6, line 21, strike "shall" and substitute "may".
- (3) On page 6, lines 24 and 25, strike "facility or program provider" and substitute "state supported living center".

### **Floor Amendment No. 2**

Amend **CSSB 25** (house committee printing) as follows:

- (1) On page 4, lines 22-23, strike "for more than 14 days in any year" and substitute "in any year for a number of days that exceeds 14 consecutive days or a total of 45 days".

(2) On page 6, line 27, strike "for more than 14 days in any year" and substitute "in any year for a number of days that exceeds 14 consecutive days or a total of 45 days".

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

Amend **CSSB 25** (house committee printing) as follows:

- (1) On page 4, line 4, after the underlined period, insert the following:  
The commission by rule shall establish an appeals process to evaluate the revocation of an individual's designation as an essential caregiver under this subsection.

(2) On page 6, line 10, after the underlined period, insert the following:

The commission by rule shall establish an appeals process to evaluate the revocation of an individual's designation as an essential caregiver under this subsection.

(3) On page 7, line 7, between "guidelines" and "required", insert "and adopt the rules".

The amendments were read.

Senator Kolkhorst moved to concur in the House amendments to **SB 25**.

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

### **SENATE BILL 398 WITH HOUSE AMENDMENT**

Senator Menéndez called **SB 398** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

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

Amend **SB 398** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. It is the intent of the legislature in enacting Section 35.037, Utilities Code, to allow grocers the ability to deploy back-up generation in the ERCOT power region in areas that have not implemented retail customer choice.

SECTION \_\_\_\_\_. Subchapter B, Chapter 35, Utilities Code, is amended by adding Section 35.037 to read as follows:

Sec. 35.037. INTERCONNECTION AND OPERATION OF CERTAIN DISTRIBUTED GENERATION FACILITIES FOR FOOD SUPPLY CHAIN. (a) In this section:

(1) "Customer" means a retail electric customer:

(A) with a distributed generation facility installed on the retail electric customer's side of the meter; and

(B) that has a primary purpose of or derives a material source of revenue from:

(i) retail grocery sales; or

(ii) food manufacturing or distribution for retail grocery sales.

(2) "Distributed generation facility" means a facility installed on the customer's side of the meter but separately metered from the customer:

(A) with a nameplate capacity of at least 250 kilowatts and not more than 10 megawatts;

(B) that is capable of generating and providing backup or supplementary power to the customer's premises; and

(C) that is owned or operated by a person registered as a power generation company in accordance with Section 39.351.

(b) This section only applies in the ERCOT power region in areas where retail customer choice has not been implemented.

(c) A person who owns or operates a distributed generation facility served by a municipally owned utility or electric cooperative in the ERCOT power region may sell electric power generated by the distributed generation facility at wholesale, including the provision of ancillary services, subject to the limitations of this section.

(d) A person who owns or operates a distributed generation facility may sell electric power generated by the distributed generation facility at wholesale to a municipally owned utility or electric cooperative certificated for retail service to the area where the distributed generation facility is located or to a related generation and transmission electric cooperative. The municipally owned utility or electric cooperative shall purchase at wholesale the quantity of electric power generated by the distributed generation facility needed to satisfy the full electric requirements of the customer on whose side of the meter the distributed generation facility is installed and operated at a wholesale price agreed to by the customer and shall resell that quantity of power at retail to the customer at the rate applicable to the customer for retail service, which must at minimum include all amounts paid for the wholesale electric power, during:

(1) an emergency declared by the independent organization certified under Section 39.151 for the ERCOT power region that creates the potential for interruption of service to the customer;

(2) any service interruption at the customer's premises;

(3) construction on the customer's premises that creates the potential for interruption of service to the customer;

(4) maintenance and testing of the distributed generation facility; and

(5) additional times mutually agreed on by the owner or operator of the distributed generation facility and the municipally owned utility or electric cooperative.

(e) The customer shall provide written notice as soon as reasonably practicable to the municipally owned utility or electric cooperative of a circumstance described by Subsection (d)(3) or (4).

(f) In addition to a sale authorized under Subsection (d), on request by an owner or operator of a distributed generation facility, the municipally owned utility or electric cooperative shall provide wholesale transmission service to the distributed generation facility owner in the same manner as to other power generation companies for the sale of power from the distributed generation facility at wholesale, including for the provision of ancillary services, in the ERCOT market. The distributed generation facility owner shall comply with all applicable commission rules and protocols and with governing documents of the independent organization certified under Section 39.151 for the ERCOT power region. This section does not require a municipally owned utility or electric cooperative to transmit electricity to a retail point of delivery in the certificated service area of the municipally owned utility or electric cooperative.

(g) In addition to a sale authorized under Subsection (d) or (f), a municipally owned utility or electric cooperative or related generation and transmission electric cooperative may purchase electric power provided by the owner or operator of the

distributed generation facility at wholesale at a mutually agreed on price. The price may be based wholly or partly on the ERCOT market clearing price of energy at the time of day and at the location at which the electric power is made available.

(h) A municipally owned utility or electric cooperative shall make available a standard interconnection application and agreement for distributed generation facilities that is substantially similar to the commission's interconnection agreement form and consistent with this section to facilitate the connection of distributed generation facilities. A municipally owned utility or electric cooperative shall allow interconnection of a distributed generation facility and provide to a distributed generation facility on a nondiscriminatory basis wholesale transmission service, including at distribution voltage, in the same manner as for other power generation companies to transmit to the ERCOT power grid the electric power generated by the distributed generation facility. A municipally owned utility or electric cooperative may recover from the owner or operator of the distributed generation facility all reasonable costs necessary for and directly attributable to the interconnection of the facility, including the reasonable costs of necessary system upgrades and improvements directly attributable to the distributed generation facility.

(i) Not later than the 30th day after the date a complete application for interconnection of a distributed generation facility is received, the municipally owned utility or electric cooperative shall provide the applicant with a written good faith cost estimate for interconnection-related costs. The municipally owned utility or electric cooperative may not incur any interconnection-related costs without entering into a written agreement for the payment of those costs by the applicant.

(j) The process to interconnect a distributed generation facility must be completed not later than the 240th day after the date the municipally owned utility or electric cooperative receives payment of all estimated costs to complete the interconnection, except that:

(1) the period may be extended by written agreement between the parties; or  
(2) the period may be extended after a good faith showing by the municipally owned utility or electric cooperative that the interconnection requires improvements, upgrades, or construction of new facilities that cannot reasonably be completed within that period, in which case the period may be extended for a time not to exceed the time necessary for the improvements, upgrades, or construction of new facilities to be completed.

(k) A municipally owned utility or electric cooperative shall charge the owner or operator of a distributed generation facility rates on a reasonable and nondiscriminatory basis for providing wholesale transmission service to the distributed generation facility owner in the same manner as for other power generation companies to transmit to the ERCOT power grid the electric power generated by the distributed generation facility in accordance with a tariff filed by the municipally owned utility or electric cooperative with the commission.

(l) The owner or operator of the distributed generation facility shall contract with the municipally owned utility or electric cooperative or the municipally owned utility's or electric cooperative's designee for any scheduling, settlement, communication, telemetry, or other services required to participate in the ERCOT wholesale market, but only to the extent that the utility, cooperative, or designee offers



the services on a nondiscriminatory basis and at a commercially reasonable cost. If the municipally owned utility or electric cooperative or the municipally owned utility's or electric cooperative's designee does not offer or declines to offer the services, or fails to do so on a nondiscriminatory basis and at a commercially reasonable cost as determined by quotes from at least three third parties providing the same services, the owner or operator of the distributed generation facility may contract with a third party provider to obtain the services.

(m) A distributed generation facility must comply with emissions limitations established by the Texas Commission on Environmental Quality for a standard emissions permit for an electric generation facility unit installed after January 1, 1995.

(n) A municipally owned utility or electric cooperative is not required to interconnect a distributed generation facility under this section if, on the date the utility or cooperative receives an application for interconnection of the facility, the municipally owned utility or electric cooperative has interconnected distributed generation facilities with an aggregate capacity that equals the lesser amount of:

(1) 5 percent of the municipally owned utility's or electric cooperative's average of the 15-minute summer peak load coincident with the independent system operator's 15-minute summer peak load in each of the months of June, July, August, and September; or

(2) 300 megawatts, adjusted annually by the percentage of total system load growth in the ERCOT power region beginning in 2022.

(o) A municipally owned utility or electric cooperative that, on the date the utility or cooperative receives an application for interconnection of a distributed generation facility, has interconnected distributed generation facilities with an aggregate capacity less than the threshold described by Subsection (n) is required to increase that capacity only up to that threshold.

(p) This section is not intended to change registration standards or other qualifications required by the independent organization certified under Section 39.151 for the ERCOT power region related to the participation of distributed generation facilities in the wholesale market. This section is not intended to allow distributed generation facilities to participate in a manner that is not technically feasible or that is otherwise in conflict with wholesale rules and requirements adopted by the independent organization certified under Section 39.151 for the ERCOT power region.

The amendment was read.

Senator Menéndez moved to concur in the House amendment to **SB 398**.

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

### **SENATE BILL 63 WITH HOUSE AMENDMENTS**

Senator Nelson called **SB 63** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment**A BILL TO BE ENTITLED  
AN ACT

relating to the system for appraising property for ad valorem tax purposes.

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

SECTION 1. Section 5.03, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any other provision of this title, the comptroller may, after providing notice, require a document, payment, notice, report, or other item required to be submitted to the comptroller under this title to be submitted electronically and may send a document, payment, notice, report or other item the comptroller is required to send under this title electronically. The comptroller may adopt rules to administer this subsection, including rules specifying the format of an item electronically submitted to or sent by the comptroller.

SECTION 2. Section 5.041, Tax Code, is amended by amending Subsections (b) and (e-1) and adding Subsection (i) to read as follows:

(b) A member of the appraisal review board established for an appraisal district must complete the course established under Subsection (a). The course must provide at least eight hours of classroom or distance training and education. A member of the appraisal review board may not participate in a hearing conducted by the board unless the person has completed the course established under Subsection (a) and received a certificate of course completion.

(e-1) In addition to the course established under Subsection (a), the comptroller shall approve curricula and provide materials for use in a continuing education course for members of an appraisal review board. The course must provide at least four hours of classroom or distance training and education. The curricula and materials must include information regarding:

(1) the cost, income, and market data comparison methods of appraising property;

(2) the appraisal of business personal property;

(3) the determination of capitalization rates for property appraisal purposes;

(4) the duties of an appraisal review board;

(5) the requirements regarding the independence of an appraisal review board from the board of directors and the chief appraiser and other employees of the appraisal district;

(6) the prohibitions against ex parte communications applicable to appraisal review board members;

(7) the Uniform Standards of Professional Appraisal Practice;

(8) the duty of the appraisal district to substantiate the district's determination of the value of property;

(9) the requirements regarding the equal and uniform appraisal of property;

(10) the right of a property owner to protest the appraisal of the property as provided by Chapter 41; and

(11) a detailed explanation of each of the actions described by Sections 25.25, 41.41(a), 41.411, 41.412, 41.413, 41.42, and 41.43 so that members are fully aware of each of the grounds on which a property appraisal can be appealed.

(i) The comptroller may adopt rules to implement this section, including rules establishing criteria for course availability and for demonstrating course completion.

SECTION 3. Section 6.035(a-1), Tax Code, is amended to read as follows:

(a-1) An individual is ineligible to serve on the board of directors of an appraisal district [~~board of directors~~] if the individual:

(1) has served as a member of the board of directors for all or part of five terms, unless:

(A) the individual was the county assessor-collector at the time the individual served as a board member; or

(B) the appraisal district is established in a county with a population of less than 120,000;

(2) has engaged in the business of appraising property for compensation for use in proceedings under this title at any time during the preceding three years;

(3) has engaged in the business [~~or~~] of representing property owners for compensation in proceedings under this title in the appraisal district at any time during the preceding three years; or

(4) has been an employee of the appraisal district at any time during the preceding three years.

SECTION 4. Section 6.054, Tax Code, is amended to read as follows:

Sec. 6.054. RESTRICTION ON EMPLOYMENT BY APPRAISAL DISTRICT. An individual may not be employed by an appraisal district if the individual [~~is~~]:

(1) is an officer of a taxing unit that participates in the appraisal district; [~~or~~]

(2) is an employee of a taxing unit that participates in the appraisal district;

or

(3) has served as a member of the appraisal review board for the appraisal district at any time during the preceding two years.

SECTION 5. Section 6.41(f), Tax Code, is amended to read as follows:

(f) A member of the appraisal review board may be removed from the board by a majority vote of the appraisal district board of directors, or by the local administrative district judge or the judge's designee, as applicable, that appointed the member. Not later than the 90th day after the date the board of directors, local administrative district judge, or judge's designee that appointed a member of the appraisal review board learns of a potential ground for removal of the member, the board of directors, local administrative district judge, or judge's designee, as applicable, shall remove the member or find by official action that the member's removal is not warranted. Grounds for removal are:

(1) a violation of Section 6.412, 6.413, 41.66(f), or 41.69;

(2) good cause relating to the attendance of members at called meetings of the board as established by written policy adopted by a majority of the appraisal district board of directors; or

(3) evidence of repeated bias or misconduct.

SECTION 6. Sections 11.45(a), (b), (d), and (e), Tax Code, are amended to read as follows:

(a) The chief appraiser shall determine separately each applicant's right to an exemption. After considering the application and all relevant information, the chief appraiser shall, as soon as practicable but not later than the 90th day after the later of the date the applicant first qualifies for the exemption or the date the applicant provides to the chief appraiser the information necessary for the chief appraiser to determine the applicant's right to the exemption, as the law and facts warrant:

- (1) approve the application and allow the exemption;
- (2) modify the exemption applied for and allow the exemption as modified;
- (3) disapprove the application and request additional information from the applicant in support of the claim; or
- (4) deny the application.

(b) If the chief appraiser requires ~~requests~~ additional information from an applicant, the chief appraiser shall, as soon as practicable but not later than the 30th day after the date the application is filed with the chief appraiser, deliver a written notice to the applicant specifying the additional information the applicant must provide to the chief appraiser before the chief appraiser can determine the applicant's right to the exemption. The ~~the~~ applicant must furnish the information not later than the 30th day ~~[it within 30 days]~~ after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(d) If the chief appraiser modifies or denies an application ~~[exemption]~~, the chief appraiser ~~he~~ shall deliver a written notice of the modification or denial to the applicant not later than the fifth day ~~[within five days]~~ after the date the chief appraiser ~~he~~ makes the determination. The notice must state and fully explain each reason the chief appraiser modified or denied the application. The notice must ~~He shall~~ include ~~[with the notice]~~ a brief explanation of the procedures for protesting the modification or denial ~~his action~~.

(e) If the chief appraiser approves, modifies, or denies an application for an exemption under Section 11.35, the chief appraiser shall deliver a written notice of the approval, modification, or denial to the applicant not later than the fifth day after the date the chief appraiser makes the determination. The notice must include the damage assessment rating assigned by the chief appraiser to each item of qualified property that is the subject of the application and a brief explanation of the procedures for protesting the chief appraiser's determination. If the chief appraiser modifies or denies the application, the notice must state and fully explain each reason the chief appraiser modified or denied the application. The notice required under this subsection is in lieu of any notice that would otherwise be required under Subsection (d).

SECTION 7. Sections 23.44(a), (b), and (d), Tax Code, are amended to read as follows:

(a) The chief appraiser shall determine individually each claimant's right to the agricultural designation. After considering the application and all relevant information, the chief appraiser shall, as soon as practicable but not later than the 90th day after the later of the date the claimant is first eligible for the agricultural

designation or the date the claimant provides to the chief appraiser the information necessary for the chief appraiser to determine the claimant's right to the agricultural designation, as the law and facts warrant:

- (1) approve the application and designate the land for agricultural use;
- (2) disapprove the application and request additional information from the claimant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requires [requests] additional information from a claimant, the chief appraiser shall, as soon as practicable but not later than the 30th day after the date the application is filed with the chief appraiser, deliver a written notice to the claimant specifying the additional information the claimant must provide to the chief appraiser before the chief appraiser can determine the applicant's right to the agricultural designation. The [the] claimant must furnish the information not later than the 30th day [within 30 days] after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(d) If the chief appraiser denies an application, the chief appraiser [he] shall deliver a written notice of the denial to the claimant not later than the fifth day [within five days] after the date of denial. The notice must state and fully explain each reason the chief appraiser denied the application. The notice must include a brief explanation of the procedures for protesting the denial.

SECTION 8. Sections 23.57(a), (b), and (d), Tax Code, are amended to read as follows:

(a) The chief appraiser shall determine separately each applicant's right to have the applicant's [his] land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as soon as practicable but not later than the 90th day after the later of the date the applicant's land is first eligible for appraisal under this subchapter or the date the applicant provides to the chief appraiser the information necessary for the chief appraiser to determine the applicant's right to have the applicant's land appraised under this subchapter, as the law and facts warrant:

- (1) approve the application and allow appraisal under this subchapter;
- (2) disapprove the application and request additional information from the applicant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requires [requests] additional information from an applicant, the chief appraiser shall, as soon as practicable but not later than the 30th day after the date the application is filed with the chief appraiser, deliver a written notice to the applicant specifying the additional information the applicant must provide to the chief appraiser before the chief appraiser can determine the applicant's right to have the applicant's land appraised under this subchapter. The [the] applicant must furnish the information not later than the 30th day [it within 30 days] after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(d) If the chief appraiser denies an application, the chief appraiser [he] shall deliver a written notice of the denial to the applicant not later than the fifth day [within five days] after the date the chief appraiser [he] makes the determination. The notice must state and fully explain each reason the chief appraiser denied the application. The notice must [He shall] include [with the notice] a brief explanation of the procedures for protesting the denial [his action and a full explanation of the reasons for denial of the application].

SECTION 9. Sections 23.79(a), (b), and (d), Tax Code, are amended to read as follows:

(a) The chief appraiser shall determine separately each applicant's right to have the applicant's [his] land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as soon as practicable but not later than the 90th day after the later of the date the applicant's land is first eligible for appraisal under this subchapter or the date the applicant provides to the chief appraiser the information necessary for the chief appraiser to determine the applicant's right to have the applicant's land appraised under this subchapter, as the law and facts warrant:

- (1) approve the application and allow appraisal under this subchapter;
- (2) disapprove the application and request additional information from the applicant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requires [requests] additional information from an applicant, the chief appraiser shall, as soon as practicable but not later than the 30th day after the date the application is filed with the chief appraiser, deliver a written notice to the applicant specifying the additional information the applicant must provide to the chief appraiser before the chief appraiser can determine the applicant's right to have the applicant's land appraised under this subchapter. The [the] applicant must furnish the information not later than the 30th day [it within 30 days] after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(d) If the chief appraiser denies an application, the chief appraiser [he] shall deliver a written notice of the denial to the applicant not later than the fifth day [within five days] after the date the chief appraiser [he] makes the determination. The notice must state and fully explain each reason the chief appraiser denied the application. The notice must [He shall] include [with the notice] a brief explanation of the procedures for protesting the denial [his action].

SECTION 10. Sections 23.85(a), (b), and (d), Tax Code, are amended to read as follows:

(a) The chief appraiser shall determine individually each claimant's right to appraisal under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as soon as practicable but not later than the 90th day after the later of the date the claimant is first eligible for appraisal under this subchapter or the date the claimant provides to the chief appraiser the information necessary for the chief appraiser to determine the claimant's right to appraisal under this subchapter, as the law and facts warrant:

- (1) approve the application and allow appraisal under this subchapter;
- (2) disapprove the application and request additional information from the claimant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requires ~~[requests]~~ additional information from a claimant, the chief appraiser shall, as soon as practicable but not later than the 30th day after the date the application is filed with the chief appraiser, deliver a written notice to the claimant specifying the additional information the claimant must provide to the chief appraiser before the chief appraiser can determine the claimant's right to appraisal under this subchapter. The ~~[the]~~ claimant must furnish the information not later than the 30th day ~~[within 30 days]~~ after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(d) If the chief appraiser denies an application, the chief appraiser ~~[he]~~ shall deliver a written notice of the denial to the claimant not later than the fifth day ~~[within five days]~~ after the date of denial. The notice must state and fully explain each reason the chief appraiser denied the application. The notice must include a brief explanation of the procedures for protesting the denial.

SECTION 11. Sections 23.95(a), (b), and (d), Tax Code, are amended to read as follows:

(a) The chief appraiser shall determine individually each claimant's right to appraisal under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as soon as practicable but not later than the 90th day after the later of the date the claimant is first eligible for appraisal under this subchapter or the date the claimant provides to the chief appraiser the information necessary for the chief appraiser to determine the claimant's right to appraisal under this subchapter, as the law and facts warrant:

- (1) approve the application and allow appraisal under this subchapter;
- (2) disapprove the application and request additional information from the claimant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requires ~~[requests]~~ additional information from a claimant, the chief appraiser shall, as soon as practicable but not later than the 30th day after the date the application is filed with the chief appraiser, deliver a written notice to the claimant specifying the additional information the claimant must provide to the chief appraiser before the chief appraiser can determine the claimant's right to appraisal under this subchapter. The ~~[the]~~ claimant must furnish the information not later than the 30th day ~~[within 30 days]~~ after the date of the request or before April 15, whichever is earlier, or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(d) If the chief appraiser denies an application, the chief appraiser [he] shall deliver a written notice of the denial to the claimant not later than the fifth day [within five days] after the date of denial. The notice must state and fully explain each reason the chief appraiser denied the application. The notice must include a brief explanation of the procedures for protesting the denial.

SECTION 12. Sections 23.9805(a), (b), and (d), Tax Code, are amended to read as follows:

(a) The chief appraiser shall determine separately each applicant's right to have the applicant's land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as soon as practicable but not later than the 90th day after the later of the date the applicant's land is first eligible for appraisal under this subchapter or the date the applicant provides to the chief appraiser the information necessary for the chief appraiser to determine the applicant's right to have the applicant's land appraised under this subchapter, based on the law and facts:

- (1) approve the application and allow appraisal under this subchapter;
- (2) disapprove the application and request additional information from the applicant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requires [requests] additional information from an applicant, the chief appraiser shall, as soon as practicable but not later than the 30th day after the date the application is filed with the chief appraiser, deliver a written notice to the applicant specifying the additional information the applicant must provide to the chief appraiser before the chief appraiser can determine the applicant's right to have the applicant's land appraised under this subchapter. The [the] applicant must furnish the information [†] not later than the 30th day after the date of the request or the chief appraiser shall deny the application. However, for good cause shown, the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(d) If the chief appraiser denies an application, the chief appraiser shall deliver a written notice of the denial to the applicant not later than the fifth day after the date the chief appraiser makes the determination. The notice must state and fully explain each reason the chief appraiser denied the application. The chief appraiser shall include with the notice a brief explanation of the procedures for protesting the denial.

SECTION 13. Section 25.193(b), Tax Code, is amended to read as follows:

(b) If a property owner has elected to receive notices by e-mail as provided by Section 1.086, [for property described by that section,] the notice required by this section must be sent in that manner regardless of whether the information was also included in a notice under Section 25.19 and must be sent separately from any other notice sent to the property owner by the chief appraiser.

SECTION 14. Section 25.25(e), Tax Code, is amended to read as follows:

(e) If the chief appraiser and the property owner do not agree to the correction before the 15th day after the date the motion is filed, a party bringing a motion under Subsection (c) or (d) is entitled on request to a hearing on and a determination of the motion by the appraisal review board. A party bringing a motion under this section must describe the error or errors that the motion is seeking to correct. If a request for hearing is made on or after January 1 but before September 1, the appraisal review



board shall schedule the hearing to be held as soon as practicable but not later than the 90th day after the date the board approves the appraisal records as provided by Section 41.12. If a request for hearing is made on or after September 1 but before January 1 of the following tax year, the appraisal review board shall schedule the hearing to be held as soon as practicable but not later than the 90th day after the date the request for the hearing is made. Not later than 15 days before the date of the hearing, the board shall deliver written notice of the date, time, and place of the hearing to the chief appraiser, the property owner, and the presiding officer of the governing body of each taxing unit in which the property is located. The chief appraiser, the property owner, and each taxing unit are entitled to present evidence and argument at the hearing and to receive written notice of the board's determination of the motion. The property owner is entitled to elect to present the owner's evidence and argument before, after, or between the cases presented by the chief appraiser and each taxing unit. A property owner who files the motion must comply with the payment requirements of Section 25.26 or forfeit the right to a final determination of the motion.

SECTION 15. Section 41.44(d), Tax Code, is amended to read as follows:

(d) A notice of protest is sufficient if it identifies the protesting property owner, including a person claiming an ownership interest in the property even if that person is not listed on the appraisal records as an owner of the property, identifies the property that is the subject of the protest, and indicates apparent dissatisfaction with some determination of the appraisal office. The notice need not be on an official form, but the comptroller shall prescribe a form that provides for more detail about the nature of the protest. The form must permit a property owner to include each property in the appraisal district that is the subject of a protest. If the form includes boxes a property owner is required to select from to indicate the reason the owner is filing a protest, the form must permit a property owner who believes that the owner's property was appraised at a value that exceeds its appraised value, was appraised unequally, or both, to select a single box to indicate that the owner is filing a protest for either or both reasons. The form must permit a property owner to request that the protest be heard by a special panel established under Section 6.425 if the protest will be determined by an appraisal review board to which that section applies and the property is included in a classification described by Section 6.425(b). The comptroller, each appraisal office, and each appraisal review board shall make the forms readily available and deliver one to a property owner on request.

SECTION 16. Section 41.45(a), Tax Code, is amended to read as follows:

(a) On the filing of a notice as required by Section 41.44, the appraisal review board shall schedule a hearing on the protest. The appraisal review board shall schedule the hearing to be held as soon as practicable but not later than the 90th day after the date the board approves the appraisal records as provided by Section 41.12. If more than one protest is filed relating to the same property, the appraisal review board shall schedule a single hearing on all timely filed protests relating to the property. A hearing for a property that is owned in undivided or fractional interests, including separate interests in a mineral in place, shall be scheduled to provide for participation by all owners who have timely filed a protest.

SECTION 17. Section 41.46, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) This subsection applies only to the appraisal review board of an appraisal district established in a county with a population of 120,000 or more. In addition to the notice required by Subsection (a), on written request of the property owner initiating the protest, the appraisal review board shall deliver to the property owner an electronic reminder stating the date, time, and place of the protest hearing that is the subject of the notice. The property owner may request that delivery of the electronic reminder be made by e-mail or text message. The property owner must provide in the request the e-mail address or telephone number, as applicable, to which the appraisal review board must send the reminder. The appraisal review board must deliver the electronic reminder to the property owner not earlier than the seventh day after the date the appraisal review board delivers the notice required by Subsection (a) and not later than the day before the date of the hearing. Failure to deliver the electronic reminder required by this subsection is not considered a failure to provide or deliver notice under Section 41.411.

SECTION 18. Section 41.67, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) The chief appraiser may not offer evidence or argument at a hearing on a protest in support of a reason for modifying or denying an application other than a reason stated in a notice delivered to the applicant under Section 11.45(d) or (e), 23.44(d), 23.57(d), 23.79(d), 23.85(d), 23.95(d), or 23.9805(d) unless the chief appraiser:

(1) provides written notice to the property owner of the additional reason for modifying or denying the application not later than the 14th day before the date of the hearing; and

(2) establishes that the additional reason was not known to the chief appraiser at the time the chief appraiser delivered to the applicant the notice under Section 11.45(d) or (e), 23.44(d), 23.57(d), 23.79(d), 23.85(d), 23.95(d), or 23.9805(d).

SECTION 19. (a) Section 6.035(a-1), Tax Code, as amended by this Act, does not affect the eligibility of a person serving as an appointed member of the board of directors of an appraisal district immediately before the effective date of this Act to continue to serve on the board for the remainder of the term to which the member was appointed.

(b) Service as an appointed member of the board of directors of an appraisal district before January 1, 2022, does not count for purposes of determining whether a person is ineligible to serve on the board of directors of an appraisal district under Section 6.035(a-1)(1), Tax Code, as added by this Act.

SECTION 20. Section 6.054, Tax Code, as amended by this Act, applies only to a former member of an appraisal review board first employed by an appraisal district on or after the effective date of this Act.

SECTION 21. Section 6.41(f), Tax Code, as amended by this Act, applies only to a potential ground for removal of a member of an appraisal review board that an appraisal district board of directors, local administrative district judge, or local administrative district judge's designee, as applicable, first learns of on or after the effective date of this Act.

SECTION 22. Sections 11.45(a) and (b), 23.44(a) and (b), 23.57(a) and (b), 23.79(a) and (b), 23.85(a) and (b), 23.95(a) and (b), and 23.9805(a) and (b), Tax Code, as amended by this Act, apply only to an application filed with a chief appraiser on or after the effective date of this Act.

SECTION 23. Sections 11.45(d) and (e), 23.44(d), 23.57(d), 23.79(d), 23.85(d), 23.95(d), and 23.9805(d), Tax Code, as amended by this Act, apply only to a notice required to be delivered by a chief appraiser on or after the effective date of this Act.

SECTION 24. Section 25.25(e), Tax Code, as amended by this Act, applies only to a motion to correct an appraisal roll filed on or after the effective date of this Act.

SECTION 25. Sections 41.45, 41.46, and 41.67, Tax Code, as amended by this Act, apply only to a protest for which the notice of protest was filed on or after the effective date of this Act.

SECTION 26. This Act takes effect September 1, 2021.

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

Amend **CSSB 63** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 11.27, Tax Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A person is entitled to an exemption from taxation of the amount of appraised value of real [his] property owned by the person that arises from the installation or construction on the property of a solar or wind-powered energy device that is primarily for production and distribution of energy for on-site use.

(a-1) A person is entitled to an exemption from taxation of the appraised value of a solar or wind-powered energy device owned by the person that is installed or constructed on real property and is primarily for production and distribution of energy for on-site use regardless of whether the person owns the real property on which the device is installed or constructed.

SECTION \_\_\_\_\_. The amendment made by this Act to Section 11.27, Tax Code, is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this Act.

The amendments were read.

Senator Nelson moved to concur in the House amendments to **SB 63**.

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

### **SENATE BILL 475 WITH HOUSE AMENDMENT**

Senator Nelson called **SB 475** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Amendment**A BILL TO BE ENTITLED  
AN ACT

relating to state agency and local government information management and security, including establishment of the state risk and authorization management program and the Texas volunteer incident response team; authorizing fees.

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

SECTION 1. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.0332 to read as follows:

Sec. 2054.0332. DATA MANAGEMENT ADVISORY COMMITTEE. (a) The board shall appoint a data management advisory committee.

(b) The advisory committee is composed of each data management officer designated by a state agency under Section 2054.137 and the department's chief data officer.

(c) The advisory committee shall:

(1) advise the board and department on establishing statewide data ethics, principles, goals, strategies, standards, and architecture;

(2) provide guidance and recommendations on governing and managing state agency data and data management systems, including recommendations to assist data management officers in fulfilling the duties assigned under Section 2054.137; and

(3) establish performance objectives for state agencies from this state's data-driven policy goals.

(d) Sections 2110.002 and 2110.008 do not apply to the advisory committee.

SECTION 2. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.0593 to read as follows:

Sec. 2054.0593. CLOUD COMPUTING STATE RISK AND AUTHORIZATION MANAGEMENT PROGRAM. (a) In this section, "cloud computing service" has the meaning assigned by Section 2157.007.

(b) The department shall establish a state risk and authorization management program to provide a standardized approach for security assessment, authorization, and continuous monitoring of cloud computing services that process the data of a state agency. The program must allow a vendor to demonstrate compliance by submitting documentation that shows the vendor's compliance with a risk and authorization management program of:

(1) the federal government; or

(2) another state that the department approves.

(c) The department by rule shall prescribe:

(1) the categories and characteristics of cloud computing services subject to the state risk and authorization management program; and

(2) the requirements for certification through the program of vendors that provide cloud computing services.

(d) A state agency shall require each vendor contracting with the agency to provide cloud computing services for the agency to comply with the requirements of the state risk and authorization management program. The department shall evaluate vendors to determine whether a vendor qualifies for a certification issued by the department reflecting compliance with program requirements.

(e) A state agency may not enter or renew a contract with a vendor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless the vendor demonstrates compliance with program requirements.

(f) A state agency shall require a vendor contracting with the agency to provide cloud computing services for the agency that are subject to the state risk and authorization management program to maintain program compliance and certification throughout the term of the contract.

SECTION 3. Section 2054.0594, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The department shall establish a framework for regional cybersecurity working groups to execute mutual aid agreements that allow state agencies, local governments, regional planning commissions, public and private institutions of higher education, the private sector, and the incident response team established under Subchapter N-2 to assist with responding to a cybersecurity event in this state. A working group may be established within the geographic area of a regional planning commission established under Chapter 391, Local Government Code. The working group may establish a list of available cybersecurity experts and share resources to assist in responding to the cybersecurity event and recovery from the event.

SECTION 4. Subchapter F, Chapter 2054, Government Code, is amended by adding Sections 2054.137 and 2054.138 to read as follows:

Sec. 2054.137. DESIGNATED DATA MANAGEMENT OFFICER. (a) Each state agency with more than 150 full-time employees shall designate a full-time employee of the agency to serve as a data management officer.

(b) The data management officer for a state agency shall:

(1) coordinate with the chief data officer to ensure the agency performs the duties assigned under Section 2054.0286;

(2) in accordance with department guidelines, establish an agency data governance program to identify the agency's data assets, exercise authority and management over the agency's data assets, and establish related processes and procedures to oversee the agency's data assets; and

(3) coordinate with the agency's information security officer, the agency's records management officer, and the Texas State Library and Archives Commission to:

(A) implement best practices for managing and securing data in accordance with state privacy laws and data privacy classifications;

(B) ensure the agency's records management programs apply to all types of data storage media;

(C) increase awareness of and outreach for the agency's records management programs within the agency; and

(D) conduct a data maturity assessment of the agency's data governance program in accordance with the requirements established by department rule.

(c) In accordance with department guidelines, the data management officer for a state agency shall post on the Texas Open Data Portal established by the department under Section 2054.070 at least three high-value data sets as defined by Section 2054.1265. The high-value data sets may not include information that is confidential or protected from disclosure under state or federal law.

(d) The data management officer for a state agency may delegate in writing to another agency employee the duty to:

(1) implement a specific requirement of Subsection (b) or (c); or

(2) participate in the advisory committee established under Section 2054.0332.

Sec. 2054.138. SECURITY CONTROLS FOR STATE AGENCY DATA. Each state agency entering into or renewing a contract with a vendor authorized to access, transmit, use, or store data for the agency shall include a provision in the contract requiring the vendor to meet the security controls the agency determines are proportionate with the agency's risk under the contract based on the sensitivity of the agency's data. The vendor must periodically provide to the agency evidence that the vendor meets the security controls required under the contract.

SECTION 5. Subchapter G, Chapter 2054, Government Code, is amended by adding Section 2054.161 to read as follows:

Sec. 2054.161. DATA CLASSIFICATION, SECURITY, AND RETENTION REQUIREMENTS. On initiation of an information resources technology project, including an application development project and any information resources projects described in this subchapter, a state agency shall classify the data produced from or used in the project and determine appropriate data security and applicable retention requirements under Section 441.185 for each classification.

SECTION 6. Chapter 2054, Government Code, is amended by adding Subchapter N-2 to read as follows:

SUBCHAPTER N-2. TEXAS VOLUNTEER INCIDENT RESPONSE TEAM

Sec. 2054.52001. DEFINITIONS. In this subchapter:

(1) "Incident response team" means the Texas volunteer incident response team established under Section 2054.52002.

(2) "Participating entity" means a state agency, including an institution of higher education, or a local government that receives assistance under this subchapter during a cybersecurity event.

(3) "Volunteer" means an individual who provides rapid response assistance during a cybersecurity event under this subchapter.

Sec. 2054.52002. ESTABLISHMENT OF TEXAS VOLUNTEER INCIDENT RESPONSE TEAM. (a) The department shall establish the Texas volunteer incident response team to provide rapid response assistance to a participating entity under the department's direction during a cybersecurity event.

(b) The department shall prescribe eligibility criteria for participation as a volunteer member of the incident response team, including a requirement that each volunteer have expertise in addressing cybersecurity events.

Sec. 2054.52003. CONTRACT WITH VOLUNTEERS. The department shall enter into a contract with each volunteer the department approves to provide rapid response assistance under this subchapter. The contract must require the volunteer to:

(1) acknowledge the confidentiality of information required by Section 2054.52010;

(2) protect all confidential information from disclosure;

(3) avoid conflicts of interest that might arise in a deployment under this subchapter;

(4) comply with department security policies and procedures regarding information resources technologies;

(5) consent to background screening required by the department; and

(6) attest to the volunteer's satisfaction of any eligibility criteria established by the department.

Sec. 2054.52004. VOLUNTEER QUALIFICATION. (a) The department shall require criminal history record information for each individual who accepts an invitation to become a volunteer.

(b) The department may request other information relevant to the individual's qualification and fitness to serve as a volunteer.

(c) The department has sole discretion to determine whether an individual is qualified to serve as a volunteer.

Sec. 2054.52005. DEPLOYMENT. (a) In response to a cybersecurity event that affects multiple participating entities or a declaration by the governor of a state of disaster caused by a cybersecurity event, the department on request of a participating entity may deploy volunteers and provide rapid response assistance under the department's direction and the managed security services framework established under Section 2054.0594(d) to assist with the event.

(b) A volunteer may only accept a deployment under this subchapter in writing. A volunteer may decline to accept a deployment for any reason.

Sec. 2054.52006. CYBERSECURITY COUNCIL DUTIES. The cybersecurity council established under Section 2054.512 shall review and make recommendations to the department regarding the policies and procedures used by the department to implement this subchapter. The department may consult with the council to implement and administer this subchapter.

Sec. 2054.52007. DEPARTMENT POWERS AND DUTIES. (a) The department shall:

(1) approve the incident response tools the incident response team may use in responding to a cybersecurity event;

(2) establish the eligibility criteria an individual must meet to become a volunteer;

(3) develop and publish guidelines for operation of the incident response team, including the:

(A) standards and procedures the department uses to determine whether an individual is eligible to serve as a volunteer;

(B) process for an individual to apply for and accept incident response team membership;

(C) requirements for a participating entity to receive assistance from the incident response team; and

(D) process for a participating entity to request and obtain the assistance of the incident response team; and

(4) adopt rules necessary to implement this subchapter.

(b) The department may require a participating entity to enter into a contract as a condition for obtaining assistance from the incident response team. The contract must comply with the requirements of Chapters 771 and 791.

(c) The department may provide appropriate training to prospective and approved volunteers.

(d) In accordance with state law, the department may provide compensation for actual and necessary travel and living expenses incurred by a volunteer on a deployment using money available for that purpose.

(e) The department may establish a fee schedule for participating entities receiving incident response team assistance. The amount of fees collected may not exceed the department's costs to operate the incident response team.

Sec. 2054.52008. STATUS OF VOLUNTEER; LIABILITY. (a) A volunteer is not an agent, employee, or independent contractor of this state for any purpose and has no authority to obligate this state to a third party.

(b) This state is not liable to a volunteer for personal injury or property damage sustained by the volunteer that arises from participation in the incident response team.

Sec. 2054.52009. CIVIL LIABILITY. A volunteer who in good faith provides professional services in response to a cybersecurity event is not liable for civil damages as a result of the volunteer's acts or omissions in providing the services, except for wilful and wanton misconduct. This immunity is limited to services provided during the time of deployment for a cybersecurity event.

Sec. 2054.52010. CONFIDENTIAL INFORMATION. Information written, produced, collected, assembled, or maintained by the department, a participating entity, the cybersecurity council, or a volunteer in the implementation of this subchapter is confidential and not subject to disclosure under Chapter 552 if the information:

(1) contains the contact information for a volunteer;

(2) identifies or provides a means of identifying a person who may, as a result of disclosure of the information, become a victim of a cybersecurity event;

(3) consists of a participating entity's cybersecurity plans or cybersecurity-related practices; or

(4) is obtained from a participating entity or from a participating entity's computer system in the course of providing assistance under this subchapter.

SECTION 7. Section 2054.515, Government Code, is amended to read as follows:

Sec. 2054.515. AGENCY INFORMATION SECURITY ASSESSMENT AND REPORT. (a) At least once every two years, each state agency shall conduct an information security assessment of the agency's:

(1) information resources systems, network systems, digital data storage systems, digital data security measures, and information resources vulnerabilities; and



(2) data governance program with participation from the agency's data management officer, if applicable, and in accordance with requirements established by department rule.

(b) Not later than November 15 of each even-numbered year [~~December 1 of the year in which a state agency conducts the assessment under Subsection (a)~~], the agency shall report the results of the assessment to:

(1) the department; and

(2) on request, the governor, the lieutenant governor, and the speaker of the house of representatives.

(c) The department by rule shall [~~may~~] establish the requirements for the information security assessment and report required by this section.

(d) The report and all documentation related to the information security assessment and report are confidential and not subject to disclosure under Chapter 552. The state agency or department may redact or withhold the information as confidential under Chapter 552 without requesting a decision from the attorney general under Subchapter G, Chapter 552.

SECTION 8. Section 2054.601, Government Code, is amended to read as follows:

Sec. 2054.601. USE OF NEXT GENERATION TECHNOLOGY. Each state agency and local government shall, in the administration of the agency or local government, consider using next generation technologies, including cryptocurrency, blockchain technology, robotic process automation, and artificial intelligence.

SECTION 9. Chapter 2059, Government Code, is amended by adding Subchapter E to read as follows:

#### SUBCHAPTER E. REGIONAL NETWORK SECURITY CENTERS

Sec. 2059.201. ELIGIBLE PARTICIPATING ENTITIES. A state agency or an entity listed in Sections 2059.058(b)(3)-(5) is eligible to participate in cybersecurity support and network security provided by a regional network security center under this subchapter.

Sec. 2059.202. ESTABLISHMENT OF REGIONAL NETWORK SECURITY CENTERS. (a) Subject to Subsection (b), the department may establish regional network security centers, under the department's managed security services framework established by Section 2054.0594(d), to assist in providing cybersecurity support and network security to regional offices or locations for state agencies and other eligible entities that elect to participate in and receive services through the center.

(b) The department may establish more than one regional network security center only if the department determines the first center established by the department successfully provides to state agencies and other eligible entities the services the center has contracted to provide.

(c) The department shall enter into an interagency contract in accordance with Chapter 771 or an interlocal contract in accordance with Chapter 791, as appropriate, with an eligible participating entity that elects to participate in and receive services through a regional network security center.

Sec. 2059.203. REGIONAL NETWORK SECURITY CENTER LOCATIONS AND PHYSICAL SECURITY. (a) In creating and operating a regional network security center, the department shall partner with a university system or institution of higher education as defined by Section 61.003, Education Code, other than a public junior college. The system or institution shall:

(1) serve as an education partner with the department for the regional network security center; and

(2) enter into an interagency contract with the department in accordance with Chapter 771.

(b) In selecting the location for a regional network security center, the department shall select a university system or institution of higher education that has supportive educational capabilities.

(c) A university system or institution of higher education selected to serve as a regional network security center shall control and monitor all entrances to and critical areas of the center to prevent unauthorized entry. The system or institution shall restrict access to the center to only authorized individuals.

(d) A local law enforcement entity or any entity providing security for a regional network security center shall monitor security alarms at the regional network security center subject to the availability of that service.

(e) The department and a university system or institution of higher education selected to serve as a regional network security center shall restrict operational information to only center personnel, except as provided by Chapter 321.

Sec. 2059.204. REGIONAL NETWORK SECURITY CENTERS SERVICES AND SUPPORT. The department may offer the following managed security services through a regional network security center:

(1) real-time network security monitoring to detect and respond to network security events that may jeopardize this state and the residents of this state;

(2) alerts and guidance for defeating network security threats, including firewall configuration, installation, management, and monitoring, intelligence gathering, and protocol analysis;

(3) immediate response to counter network security activity that exposes this state and the residents of this state to risk, including complete intrusion detection system installation, management, and monitoring for participating entities;

(4) development, coordination, and execution of statewide cybersecurity operations to isolate, contain, and mitigate the impact of network security incidents for participating entities; and

(5) cybersecurity educational services.

Sec. 2059.205. NETWORK SECURITY GUIDELINES AND STANDARD OPERATING PROCEDURES. (a) The department shall adopt and provide to each regional network security center appropriate network security guidelines and standard operating procedures to ensure efficient operation of the center with a maximum return on the state's investment.

(b) The department shall revise the standard operating procedures as necessary to confirm network security.

(c) Each eligible participating entity that elects to participate in a regional network security center shall comply with the network security guidelines and standard operating procedures.

SECTION 10. Subtitle B, Title 10, Government Code, is amended by adding Chapter 2062 to read as follows:

CHAPTER 2062. RESTRICTIONS ON STATE AGENCY USE OF CERTAIN INDIVIDUAL-IDENTIFYING INFORMATION

Sec. 2062.001. DEFINITIONS. In this chapter:

(1) "Biometric identifier" has the meaning assigned by Section 560.001.

(2) "State agency" means a department, commission, board, office, council, authority, or other agency in the executive, legislative, or judicial branch of state government, including a university system or institution of higher education as defined by Section 61.003, Education Code, that is created by the constitution or a statute of this state.

Sec. 2062.002. CONSENT REQUIRED BEFORE ACQUIRING, RETAINING, OR DISSEMINATING CERTAIN INFORMATION; RECORDS. (a) Except as provided by Subsection (b), a state agency may not:

(1) use global positioning system technology, individual contact tracing, or technology designed to obtain biometric identifiers to acquire information that alone or in conjunction with other information identifies an individual or the individual's location without the individual's written or electronic consent;

(2) retain information with respect to an individual described by Subdivision (1) without the individual's written or electronic consent; or

(3) disseminate to a person the information described by Subdivision (1) with respect to an individual unless the state agency first obtains the individual's written or electronic consent.

(b) A state agency may acquire, retain, and disseminate information described by Subsection (a) with respect to an individual without the individual's written or electronic consent if the acquisition, retention, or dissemination is:

(1) required or permitted by a federal statute or by a state statute other than Chapter 552; or

(2) made by or to a law enforcement agency for a law enforcement purpose.

(c) A state agency shall retain the written or electronic consent of an individual obtained as required under this section in the agency's records until the contract or agreement under which the information is acquired, retained, or disseminated expires.

SECTION 11. (a) Not later than December 1, 2021, the Department of Information Resources shall:

(1) establish the state risk and authorization management program as required by Section 2054.0593, Government Code, as added by this Act;

(2) establish the framework for regional cybersecurity working groups to execute mutual aid agreements as required under Section 2054.0594(d), Government Code, as added by this Act; and

(3) establish the Texas volunteer incident response team as required by Subchapter N-2, Chapter 2054, Government Code, as added by this Act.

(b) Each state agency shall ensure that:

(1) each contract for cloud computing services the agency enters into or renews on or after January 1, 2022, complies with Section 2054.0593, Government Code, as added by this Act; and

(2) each contract subject to Section 2054.138, Government Code, as added by this Act, that is executed on or after the effective date of this Act complies with that section.

(c) Each state agency subject to Section 2054.137, Government Code, as added by this Act, shall designate a data management officer as soon as practicable after the effective date of this Act.

(d) Each state agency subject to Section 2054.161, Government Code, as added by this Act, shall ensure each information resources technology project initiated on or after the effective date of this Act complies with that section.

SECTION 12. Not later than October 15, 2022, the Department of Information Resources shall submit to the standing committees of the senate and house of representatives with primary jurisdiction over state agency cybersecurity a report on the department's activities and recommendations related to the Texas volunteer incident response team established as required by Subchapter N-2, Chapter 2054, Government Code, as added by this Act.

SECTION 13. Chapter 2062, Government Code, as added by this Act, applies only to information acquired, retained, or disseminated by a state agency to another person on or after the effective date of this Act.

SECTION 14. (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, 2021.

(b) Chapter 2062, Government Code, as added by this Act, takes effect September 1, 2021.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 475**.

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

### **SENATE BILL 477 WITH HOUSE AMENDMENT**

Senator Nelson called **SB 477** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

### **Amendment**

#### **A BILL TO BE ENTITLED AN ACT**

relating to the administration and collection of sales and use taxes and certain fees applicable to sales involving marketplace providers.

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

SECTION 1. Effective July 1, 2022, Section 361.138(a), Health and Safety Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Marketplace provider" has the meaning assigned by Section 151.0242(a), Tax Code.

SECTION 2. Effective July 1, 2022, Sections 361.138(b), (c), and (i), Health and Safety Code, are amended to read as follows:

(b) A wholesale or retail battery dealer who sells or offers to sell, or a marketplace provider who processes sales of or payments for, lead-acid batteries not for resale shall collect at the time and place of sale a fee for each nonexempt lead-acid battery sold, according to the following schedule:

(1) for a lead-acid battery with a capacity of less than 12 volts, a fee of \$2;

(2) for a lead-acid battery with a capacity of 12 or more volts, a fee of \$3.

(c) A dealer or marketplace provider required to collect a fee under this section:

(1) shall list as a separate item on an invoice a fee due under this section;

and

(2) except as provided by Subsection (d), on or before the 20th day of the month following the end of each calendar month and on a form and in the manner prescribed by the comptroller, shall file a report with and shall remit to the comptroller the amount of fees collected during the preceding calendar month.

(i) A dealer or marketplace provider required to collect a fee under this section may retain 2-1/2 cents from each fee the person [~~dealer~~] collects. A dealer or marketplace provider shall account for amounts retained under this subsection in the manner prescribed by the comptroller.

SECTION 3. Effective July 1, 2022, Section 771.0712, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) A marketplace provider, as defined by Section 151.0242(a), Tax Code, shall:

(1) collect on behalf of the seller the fee imposed by this section on a sale made through the marketplace; and

(2) after making the deduction authorized to be made by a seller under Subsection (a), remit the fee to the comptroller in the same manner a seller remits collected fees under this section.

SECTION 4. Section 151.0242, Tax Code, is amended by adding Subsection (l) to read as follows:

(l) A marketplace seller who places a ticket or other admission document for sale through a marketplace must certify to the marketplace provider that the taxes imposed by this chapter on the original purchase of the ticket or admission document were paid. A marketplace provider who in good faith accepts a marketplace seller's certification under this subsection may take the deduction provided by Section 151.432 on behalf of the marketplace seller.

SECTION 5. Section 151.304, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) This section does not apply to the sale of a taxable item made by a marketplace seller through a marketplace, as those terms are defined by Section 151.0242(a).

SECTION 6. Section 321.203(e-1), Tax Code, is amended to read as follows:

(e-1) Except as otherwise provided by Subsection (f), (g), (g-1), (g-2), (g-3), (h), (i), (j), (k), (m), or (n) [Notwithstanding any other provision of this section], a sale of a taxable item made by a marketplace seller through a marketplace as provided by Section 151.0242 is consummated at the location in this state to which the item is shipped or delivered or at which possession is taken by the purchaser.

SECTION 7. Section 323.203(e-1), Tax Code, is amended to read as follows:

(e-1) Except as otherwise provided by Subsection (f), (g), (g-1), (g-2), (g-3), (h), (i), (j), (k), or (m) [Notwithstanding any other provision of this section], a sale of a taxable item made by a marketplace seller through a marketplace as provided by Section 151.0242 is consummated at the location in this state to which the item is shipped or delivered or at which possession is taken by the purchaser.

SECTION 8. A change in law made by this Act does not affect tax liability accruing before the effective date of the change in law. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 9. Except as otherwise provided by this Act, this Act takes effect October 1, 2021.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 477**.

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

### **SENATE BILL 19 WITH HOUSE AMENDMENTS**

Senator Schwertner called **SB 19** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Amendment**

#### A BILL TO BE ENTITLED AN ACT

relating to prohibited contracts with companies that discriminate against the firearm or ammunition industries.

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

SECTION 1. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2274 to read as follows:

#### CHAPTER 2274. PROHIBITION ON CONTRACTS WITH COMPANIES THAT DISCRIMINATE AGAINST FIREARM AND AMMUNITION INDUSTRIES

Sec. 2274.001. DEFINITIONS. In this chapter:

(1) "Ammunition" means a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile.

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or associations that exists to make a profit.

(3) "Discriminate against a firearm entity or firearm trade association":

(A) means, with respect to the entity or association, to:

- (i) refuse to engage in the trade of any goods or services;
- (ii) refrain from continuing an existing business relationship;
- (iii) terminate an existing business relationship; or
- (iv) otherwise express a prejudice against the entity or association;

and

(B) does not include the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories.

(4) "Firearm" means a weapon that expels a projectile by the action of explosive or expanding gases.

(5) "Firearm accessory" means a device specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and an item used in conjunction with or mounted on a firearm that is not essential to the basic function of the firearm. The term includes a detachable firearm magazine.

(6) "Firearm entity" means:

(A) a firearm, firearm accessory, or ammunition manufacturer, distributor, wholesaler, supplier, or retailer; and

(B) a sport shooting range as defined by Section 250.001, Local Government Code.

(7) "Firearm trade association" means any person, corporation, unincorporated association, federation, business league, or business organization that:

(A) is not organized or operated for profit and for which none of its net earnings inures to the benefit of any private shareholder or individual;

(B) has two or more firearm entities as members; and

(C) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

(8) "Governmental entity" has the meaning assigned by Section 2251.001.

Sec. 2274.002. PROVISION REQUIRED IN CONTRACT. (a) This section applies only to a contract to be paid partly or wholly from public funds between a governmental entity and a company with at least 10 full-time employees that has a value of at least \$100,000.

(b) Except as provided by Section 2274.003, a governmental entity may not enter into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company that it:

(1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association; and

(2) will not discriminate during the term of the contract against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association.

Sec. 2274.003. CERTAIN CONTRACTS EXEMPTED. (a) A contract entered into in connection with or relating to the issuance, sale, or delivery of notes under Subchapter H, Chapter 404, or the administration of matters related to the notes, including the investment of note proceeds, is exempt from this chapter if, in the comptroller's sole discretion, the comptroller determines that compliance with Section 2274.002 is likely to prevent:

(1) an issuance, sale, or delivery that is sufficient to address the general revenue cash flow shortfall forecast; or

(2) the administration of matters related to the notes.

(b) Before making a determination under Subsection (a), the comptroller must:

(1) survey potential respondents or bidders to a solicitation for a contract described by Subsection (a) to determine the number of qualified potential respondents or bidders that are able to provide the written verification required by Section 2274.002; and

(2) evaluate the historical bidding performance of qualified potential bidders.

SECTION 2. The change in law made by this Act applies only to a contract entered into on or after the effective date of this Act. A contract entered into 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 3. This Act takes effect September 1, 2021.

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

Amend **CSSB 19** (house committee report) as follows:

(1) On page 1, line 17, after the underlined period, insert "The term does not include a sole proprietorship."

(2) Strike page 1, line 22 through page 2, line 9, and substitute the following:

(i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association;

(ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or

(iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association;  
and

(B) does not include:

(i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and

(ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship:

(aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or



(bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

(3) On page 3, strike lines 9-12, and substitute the following:

Sec. 2274.002. PROVISION REQUIRED IN CONTRACT. (a) This section applies only to a contract that:

(1) is between a governmental entity and a company with at least 10 full-time employees; and

(2) has a value of at least \$100,000 that is paid wholly or partly from public funds of the governmental entity.

(4) On page 3, line 13, between "by" and "Section", insert "Subsection (c) and".

(5) On page 3, strike lines 17-24, and substitute the following:

(1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and

(2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

(c) Subsection (b) does not apply to a governmental entity that:

(1) contracts with a sole-source provider; or

(2) does not receive any bids from a company that is able to provide the written verification required by that subsection.

The amendments were read.

Senator Schwertner moved to concur in the House amendments to **SB 19**.

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

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Menéndez, Miles, Powell, West, Whitmire, Zaffirini.

### **SENATE BILL 30 WITH HOUSE AMENDMENTS**

Senator West called **SB 30** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Amendment**

#### **A BILL TO BE ENTITLED AN ACT**

relating to the removal of certain discriminatory provisions from a recorded conveyance instrument or document.

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

SECTION 1. Subchapter B, Chapter 5, Property Code, is amended by adding Section 5.0261 to read as follows:

Sec. 5.0261. REMOVAL OF DISCRIMINATORY PROVISION FROM RECORDED CONVEYANCE INSTRUMENT OR DOCUMENT. (a) In this section, "discriminatory provision" means a restriction or provision that is void under Section 5.026(a).

(b) A person who owns real property or an interest in real property the chain of title for which includes a recorded conveyance instrument or document containing a discriminatory provision may request the removal of the discriminatory provision from the instrument or document by completing and filing, with the clerk of a district court in the county in whose real property records the instrument or document is recorded or of another court having jurisdiction over real property matters in the county, a motion, verified by affidavit by a completed form for ordinary certificate of acknowledgment of the same type described by Section 121.007, Civil Practice and Remedies Code, that contains, at a minimum, the information in the following suggested form:

<u>In Re: Conveyance Instrument with Discriminatory Provision</u>	<u>MISC. DOCKET NO. _____</u> <u>In the _____ Judicial District</u> <u>In and For _____</u> <u>County, Texas</u>
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Motion for Judicial Review of Conveyance Instrument or Document Alleged to Contain a Discriminatory Provision as Defined by Section 5.0261(a), Texas Property Code

Now Comes (name) and files this motion requesting a judicial determination of the status of a conveyance instrument or document that contains a discriminatory provision as defined by Section 5.0261(a), Texas Property Code, filed in the office of the Clerk of (county name) County, Texas, and in support of the motion would show the court as follows:

I.

(Name), movant herein, is the person who owns the real property or the interest in real property described in the conveyance instrument or document.

II.

On (date), in the exercise of the county clerk's official duties as County Clerk of (county name) County, Texas, the county clerk received and filed and recorded the conveyance instrument or document attached hereto and containing (number) pages. The instrument is recorded at \_\_\_\_\_ in the real property records of \_\_\_\_\_ County. The conveyance instrument or document contains a discriminatory provision as defined by Section 5.0261(a), Texas Property Code.

III.

Movant alleges that the conveyance instrument or document attached hereto contains a discriminatory provision as defined by Section 5.0261(a), Texas Property Code, and that the discriminatory provision should be removed.

IV.

Movant attests that assertions herein are true and correct.

V.  
PRAYER

Movant requests the court to review the attached conveyance instrument or document and enter an order removing the discriminatory provision as defined by Section 5.0261(a), Texas Property Code, together with such other orders as the court deems appropriate.

Respectfully submitted,

(Signature and typed name and address)

(c) The completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, must be as follows:

AFFIDAVIT

THE STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who, being by me duly sworn, deposed as follows:

"My name is \_\_\_\_\_. I am over 21 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

SUBSCRIBED and SWORN TO before  
me, this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

NOTARY PUBLIC, State of Texas  
Notary's printed name:

My commission expires:

(d) A motion under this section may be ruled on by a court having jurisdiction over real property matters in the county where the subject document was filed. The court's finding may be made solely on a review of the conveyance instrument or document attached to the motion and without hearing any testimonial evidence. The court's review may be made ex parte without delay or notice of any kind. If the court does not rule on the motion on or before the 15th day after the date the motion is filed, the motion is deemed granted. An appellate court shall expedite review of a court's finding under this section.

(e) A court clerk may not collect a filing fee for filing a motion under this section.

(f) After reviewing the conveyance instrument or document attached to a motion filed under this section, the court shall enter an appropriate finding of fact and conclusion of law.

(g) The court's finding of fact and conclusion of law must be:

(1) transferred by the court clerk to the county clerk for recording and indexing not later than the 10th day after the date the finding of fact and conclusion of law is entered by the court or deemed granted under Subsection (d); and

(2) filed and indexed by the county clerk in the same class of records in which the subject conveyance instrument or document is filed.

(h) The county clerk may not collect a fee for filing a court's finding of fact and conclusion of law under this section.

(i) A suggested form of order appropriate to comply with Subsection (f) is as follows:

<u>In Re: Conveyance Instrument</u> <u>with Discriminatory</u> <u>Provision</u> <u>Judicial Finding of Fact and Conclusion of Law Regarding Conveyance Instrument or</u> <u>Document Alleged to Contain a Discriminatory Provision as Defined by Section</u> <u>5.0261(a), Texas Property Code</u>	<u>MISC. DOCKET NO. _____</u> <u>In the _____ Judicial District</u> <u>In and For _____</u> <u>County, Texas</u>
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On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion, verified by affidavit, of (name) and the conveyance instrument or document attached thereto. No testimony was taken from any party, nor was there any notice of the court's review, the court having made the determination that a decision could be made solely on review of the conveyance instrument or document under the authority vested in the court under Section 5.0261, Texas Property Code.

The court finds as follows (only an item checked and initialed is a valid court ruling):

\_\_\_\_\_ The conveyance instrument or document recorded at \_\_\_\_\_ in the real property records of \_\_\_\_\_ County CONTAINS a discriminatory provision as defined by Section 5.0261(a), Texas Property Code. The discriminatory provision as defined by Section 5.0261(a), Texas Property Code, is void and removed from the conveyance instrument or document identified herein.

\_\_\_\_\_ The conveyance instrument or document recorded at \_\_\_\_\_ in the real property records of \_\_\_\_\_ County and attached to the motion herein DOES NOT CONTAIN a discriminatory provision as defined by Section 5.0261(a), Texas Property Code.

This court expressly limits its finding of fact and conclusion of law to the review of a ministerial act. The county clerk shall file this finding of fact and conclusion of law in the same class of records in which the subject conveyance instrument or document is filed, and the court directs the county clerk to index it using the same names used to index the subject conveyance instrument or document.

SIGNED ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_.

JUDGE  
\_\_\_\_\_  
(Court)  
\_\_\_\_\_ COUNTY, TEXAS

SECTION 2. Sections 193.003(a) and (b), Local Government Code, are amended to read as follows:

(a) The county clerk shall maintain an alphabetical index to all recorded deeds, powers of attorney, mortgages, correction instruments, findings of fact and conclusions of law entered under Section 5.0261, Property Code, and other instruments relating to real property. The index must state the specific location in the records at which the instruments are recorded.

(b) The index must be a cross-index that contains the names of the grantors and grantees in alphabetical order. If a deed is made by a sheriff, the index entry must contain the name of the sheriff and the defendant in execution. If a deed is made by an executor, administrator, or guardian, the index entry must contain the name of that person and the name of the person's testator, intestate, or ward. If a deed is made by an attorney, the index entry must contain the name of the attorney and the attorney's constituents. If a deed is made by a commissioner or trustee, the index entry must contain the name of the commissioner or trustee and the name of the person whose estate is conveyed. The index entry for a correction instrument must contain the names of the grantors and grantees as stated in the correction instrument. The index entry for a finding of fact and conclusion of law entered under Section 5.0261, Property Code, must contain the names of the grantors and grantees as stated in the subject conveyance instrument or document. The index entry for a paper document described by Section 12.0011(b)(3), Property Code, must contain the names of the grantors and grantees.

SECTION 3. This Act takes effect September 1, 2021.

### Floor Amendment No. 1

Amend **CSSB 30** (house committee report) as follows:

- (1) On page 1, line 8, strike "OR DOCUMENT".
- (2) On page 1, strike "or document" each time it appears (page 1, lines 13, 15, and 17).
- (3) On page 1, line 14, between "provision" and "may", insert ", or another person with the permission of the owner,".
- (4) On page 2, line 3, strike "or Document".
- (5) On page 2, strike "or document" each time it appears (page 2, lines 7, 15, 19-20, 22, and 26).
- (6) On page 2, line 15, strike the underlined period and substitute "or has been given permission by that person to file this motion.".
- (7) On page 3, line 8, strike "or document".
- (8) On page 4, line 15, strike "document" and substitute "conveyance instrument".
- (9) On page 4, strike "or document" each time it appears (page 4, lines 16 and 25).
- (10) On page 5, strike "or document" each time it appears (page 5, lines 8-9, 23, and 27).
- (11) On page 5, line 19, strike "or Document".
- (12) On page 6, strike "or document" each time it appears (page 6, lines 4, 9, 10, 17-18, and 20).
- (13) On page 7, line 23, strike "or document".

**Floor Amendment No. 2**

Amend **CSSB 30** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. This Act shall be known as the Senator Royce West Act.

The amendments were read.

Senator West moved to concur in the House amendments to **SB 30**.

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

**SENATE BILL 24 WITH HOUSE AMENDMENT**

Senator Huffman called **SB 24** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Amendment**

A BILL TO BE ENTITLED  
AN ACT

relating to the procedures required before a law enforcement agency hires certain persons.

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

SECTION 1. Section 143.089, Local Government Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g) A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use. Except as provided by Subsection (h), ~~but~~ the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

(h) As provided by Section 1701.451, Occupations Code, a law enforcement agency hiring a police officer is entitled to view the contents of the officer's personnel file maintained under Subsection (g).

SECTION 2. The heading to Subchapter J, Chapter 1701, Occupations Code, is amended to read as follows:

SUBCHAPTER J. EMPLOYMENT RECORDS AND PREEMPLOYMENT  
PROCEDURE

SECTION 3. The heading to Section 1701.451, Occupations Code, is amended to read as follows:

Sec. 1701.451. PREEMPLOYMENT PROCEDURE ~~[REQUEST FOR EMPLOYMENT TERMINATION REPORT AND SUBMISSION OF BACKGROUND CHECK CONFIRMATION FORM].~~

SECTION 4. Section 1701.451, Occupations Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (d), (e), and (f) to read as follows:

(a) Before a law enforcement agency may hire a person licensed under this chapter, the agency ~~[head or the agency head's designee]~~ must, on a form and in the manner prescribed by the commission:

(1) obtain the person's written consent for the agency to review the information required to be reviewed under this section; [make a request to the commission for any employment termination report regarding the person that is maintained by the commission under this subchapter; and]

(2) request from the commission and any other applicable person information required to be reviewed under this section; and

(3) submit to the commission confirmation that the agency, to the best of the agency's ability before hiring the person:

(A) contacted each entity or individual necessary to obtain the information required to be reviewed under this section; and

(B) except as provided by Subsection (b), obtained and reviewed as related to the person, as applicable:

(i) personnel files and other employee records from each previous law enforcement agency employer, including the employment application submitted to the previous employer;

(ii) employment termination reports maintained by the commission under this subchapter;

(iii) service records maintained by the commission;

(iv) proof that the person meets the minimum qualifications for enrollment in a training program under Section 1701.251(a);

(v) a military veteran's United States Department of Defense Form DD-214 or other military discharge record;

(vi) criminal history record information;

(vii) information on pending warrants as available through the Texas Crime Information Center and National Crime Information Center;

(viii) evidence of financial responsibility as required by Section 601.051, Transportation Code;

(ix) a driving record from the Department of Public Safety;

(x) proof of United States citizenship; and

(xi) information on the person's background from at least three personal references and at least two professional references [submit to the commission on the form prescribed by the commission confirmation that the agency:

(A) conducted in the manner prescribed by the commission a criminal background check regarding the person;

(B) obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records;

(C) obtained from the commission any service or education records regarding the person maintained by the commission; and

(D) contacted each of the person's previous law enforcement employers].

(b) If an entity or individual contacted for information required to be reviewed under this section refused to provide the information or did not respond to the request for information, the confirmation submitted to the commission must document the

manner of the request and the refusal or lack of response [The commission by rule shall establish a system for verifying an electronically submitted request required by Subsection (a)(1)].

(c) If the commission or a law enforcement agency receives from a law enforcement agency a request for information under this section and the person's consent on the forms and in the manner prescribed by the commission [that complies with Subsections (a)(1) and (b)], the commission or agency [employee having the responsibility to maintain any employment termination report regarding the person who is the subject of the request] shall provide the information [release the report] to the requesting agency.

(d) The confirmation form submitted to the commission under this section is not confidential and is subject to disclosure under Chapter 552, Government Code.

(e) The commission shall:

(1) by rule establish the forms and procedures required by this section, including:

(A) the process by which a law enforcement agency shall make a person's employment records electronically available to a law enforcement agency hiring a person licensed under this chapter;

(B) appropriate privacy and security protections for the process described by Paragraph (A); and

(C) a rule prohibiting a confirmation form submitted to the commission under this section from containing confidential information described by Section 552.1175(b), Government Code, regarding the person who is the subject of the confirmation form;

(2) post the forms and procedures on the commission's Internet website; and

(3) retain a record of each confirmation form submitted under this section.

(f) The head of a law enforcement agency or the agency head's designee shall review and sign each confirmation form required under this section before submission to the commission. The failure of an agency head or the agency head's designee to comply with this subsection constitutes grounds for suspension of the agency head's license under Section 1701.501.

SECTION 5. Section 1701.456(b), Occupations Code, is amended to read as follows:

(b) A law enforcement agency, agency head, or other law enforcement official is not liable for civil damages for:

(1) a report made by that agency or person if the report is made in good faith; or

(2) making a person's information available to a hiring law enforcement agency under Section 1701.451.

SECTION 6. Section 1701.451(a-1), Occupations Code, is repealed.

SECTION 7. (a) Not later than January 1, 2022, the Texas Commission on Law Enforcement shall adopt the rules necessary to implement Section 1701.451, Occupations Code, as amended by this Act.



(b) The changes in law made by this Act apply only to the hiring of a person by a law enforcement agency that occurs on or after January 1, 2022. The hiring of a person by a law enforcement agency that occurs 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 8. This Act takes effect September 1, 2021.

The amendment was read.

Senator Huffman moved to concur in the House amendment to **SB 24**.

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

### **SENATE BILL 112 WITH HOUSE AMENDMENT**

Senator West called **SB 112** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### **Amendment**

#### A BILL TO BE ENTITLED AN ACT

relating to the procedures for the installation and use of tracking equipment and for access to certain communications and location information by law enforcement and the admissibility of certain evidence obtained through those procedures.

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

SECTION 1. Article 18.01(b), Code of Criminal Procedure, is amended to read as follows:

(b) No search warrant shall issue for any purpose in this state unless sufficient facts are first presented to satisfy the issuing magistrate that probable cause does in fact exist for its issuance. A sworn affidavit setting forth substantial facts establishing probable cause shall be filed in every instance in which a search warrant is requested. Except as otherwise provided by this code [~~provided by Article 18.011~~], the affidavit becomes public information when the search warrant for which the affidavit was presented is executed, and the magistrate's clerk shall make a copy of the affidavit available for public inspection in the clerk's office during normal business hours.

SECTION 2. Article 18.06(a), Code of Criminal Procedure, is amended to read as follows:

(a) A peace officer to whom a search warrant is delivered shall execute the warrant without delay and shall [~~forthwith~~] return the warrant to the proper magistrate. [~~A search warrant issued under Article 18B.354 must be executed in the manner provided by Article 18B.355 not later than the 11th day after the date of issuance. In all other cases, a search warrant must be executed within three days from the time of its issuance. A warrant issued under this chapter, Chapter 18A, or Chapter 18B shall be executed within a shorter period if so directed in the warrant by the magistrate.~~]

SECTION 3. Article 18.07(a), Code of Criminal Procedure, is amended to read as follows:

(a) Unless the magistrate directs in the warrant a shorter period for the execution of any search warrant issued under this chapter, Chapter 18A, or Chapter 18B, the [The] period allowed for the execution of the [a search] warrant, exclusive of the day of its issuance and of the day of its execution, is:

(1) 15 whole days if the warrant is issued solely to search for and seize specimens from a specific person for DNA analysis and comparison, including blood and saliva samples;

(2) 10 whole days if the warrant is issued under Article 18B.354 or Subchapter G-1, Chapter 18B; or

(3) three whole days if the warrant is issued for a purpose other than that described by Subdivision (1) or (2).

SECTION 4. Article 18B.001, Code of Criminal Procedure, is amended by amending Subdivision (7) and adding Subdivisions (9-a) and (9-b) to read as follows:

(7) "Electronic customer data" means data or records that:

(A) are in the possession, care, custody, or control of a provider of an electronic communications service or provider of a remote computing service; and

(B) contain:

(i) information revealing the identity of customers of the applicable service;

(ii) information about a customer's use of the applicable service;

(iii) information that identifies the recipient or destination of a wire or electronic communication sent to or by a customer;

(iv) the content of a wire or electronic communication sent to or by a customer; ~~and~~

(v) any data stored with the applicable service provider by or on behalf of a customer; or

(vi) location information.

(9-a) "Immediate life-threatening situation" has the meaning assigned by Article 18A.201.

(9-b) "Location information" means data, records, or other information that is created by or accessible to a provider of an electronic communications service or a provider of a remote computing service and may be used to identify the geographic physical location of a communication device, including the current, real-time, or prospective geographic physical location of a communication device.

SECTION 5. Article 18B.202(c), Code of Criminal Procedure, is amended to read as follows:

(c) The affidavit must:

(1) state the name, department, agency, and address of the applicant;

(2) identify the vehicle, container, or item to which, in which, or on which the mobile tracking device is to be attached, placed, or otherwise installed;

(3) state the name of the owner or possessor of the vehicle, container, or item identified under Subdivision (2);

(4) state the judicial jurisdictional area in which the vehicle, container, or item identified under Subdivision (2) is expected to be found; and

(5) state the facts and circumstances that provide the applicant with probable cause to believe [a reasonable suspicion] that:

(A) criminal activity has been, is, or will be committed; and

(B) the installation and use of a mobile tracking device is likely to produce information that is material to an ongoing criminal investigation of that criminal activity.

SECTION 6. Chapter 18B, Code of Criminal Procedure, is amended by adding Subchapter G-1 to read as follows:

SUBCHAPTER G-1. PROSPECTIVE LOCATION INFORMATION

Art. 18B.321. APPLICABILITY. (a) This subchapter applies only to a warrant described by Article 18B.322 for the required disclosure of location information that is:

(1) held in electronic storage in the possession, care, custody, or control of a provider of an electronic communications service or a provider of a remote computing service; and

(2) created after the issuance of the warrant.

(b) Articles 18B.355, 18B.356, and 18B.357 apply to a warrant issued under this subchapter in the same manner as those articles apply to a warrant issued under Article 18B.354.

Art. 18B.322. WARRANT REQUIRED FOR CERTAIN LOCATION INFORMATION HELD IN ELECTRONIC STORAGE. (a) A warrant is required to obtain the disclosure of location information described by Article 18B.321(a) by a provider of an electronic communications service or a provider of a remote computing service.

(b) Only a prosecutor or a prosecutor's assistant with jurisdiction in a county within a judicial district described by Article 18B.052(4) may file an application for a warrant under this subchapter. The application must be supported by the sworn affidavit required by Article 18.01(b).

(c) The application must be filed with a district judge in the applicable judicial district on:

(1) the prosecutor's or assistant's own motion; or

(2) the request of an authorized peace officer of a designated law enforcement office or agency or an authorized peace officer commissioned by the department.

Art. 18B.323. ISSUANCE OF WARRANT. (a) On the filing of an application for a warrant under this subchapter, a district judge may issue the warrant to obtain the disclosure of location information by a provider described by Article 18B.355(b), regardless of whether the location information is held at a location in this state or another state.

(b) A warrant may not be issued under this article unless the sworn affidavit required by Article 18.01(b) provides sufficient and substantial facts to establish probable cause that:

(1) the disclosure of the location information sought will:

(A) produce evidence of an offense under investigation; or

(B) result in the apprehension of a fugitive from justice; and

(2) the location information sought is held in electronic storage in the possession, care, custody, or control of the service provider on which the warrant is served.

Art. 18B.324. DURATION; SEALING. (a) A warrant issued under this subchapter is valid for a period not to exceed 60 days after the date the warrant is issued, unless the prosecutor or prosecutor's assistant applies for and obtains an extension of that period from the court before the warrant expires.

(b) Each extension granted under Subsection (a) may not exceed a period of 60 days.

(c) A district court that issues a warrant under this subchapter shall order the warrant and the application for the warrant sealed and may not unseal the warrant and application until after the warrant expires.

Art. 18B.325. EMERGENCY DISCLOSURE. (a) An authorized peace officer of a designated law enforcement office or agency or an authorized peace officer commissioned by the department may, without a warrant, require the disclosure of location information described by Article 18B.321(a) if:

(1) the officer reasonably believes an immediate life-threatening situation exists that:

(A) is within the officer's territorial jurisdiction; and

(B) requires the disclosure of the location information before a warrant can, with due diligence, be obtained under this subchapter; and

(2) there are sufficient grounds under this subchapter on which to obtain a warrant requiring the disclosure of the location information.

(b) Not later than 48 hours after requiring disclosure of location information without a warrant under Subsection (a), the authorized peace officer shall obtain a warrant for that purpose in accordance with this subchapter.

Art. 18B.326. CERTAIN EVIDENCE NOT ADMISSIBLE. The state may not use as evidence in a criminal proceeding any information obtained through the required disclosure of location information described by Article 18B.321(a), unless:

(1) a warrant is obtained before requiring the disclosure; or

(2) if the disclosure is required under Article 18B.325 before a warrant can be obtained, the authorized peace officer who required the disclosure obtains a warrant as required by Subsection (b) of that article.

SECTION 7. Article 18B.151(a), Code of Criminal Procedure, is repealed.

SECTION 8. The changes in law made by this Act to Chapter 18B, Code of Criminal Procedure, relating to the disclosure of certain information by a provider of an electronic communications service or a provider of a remote computing service under a warrant, order, or other legal process apply only to a disclosure made on or after the effective date of this Act.

SECTION 9. This Act takes effect September 1, 2021.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 112**.

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

### **SENATE BILL 1531 WITH HOUSE AMENDMENT**

Senator West called **SB 1531** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 1531** (house committee report) on page 3 by striking lines 3 through 9 and substituting the following appropriately numbered SECTIONS:

SECTION \_\_\_\_\_. The change in law made by this Act to Section 54.014, Education Code, applies beginning with tuition charged to students enrolling for the first time in an associate degree program at a public institution of higher education for the 2023 fall semester. Tuition charged to a student who first enrolled in an associate degree program at a public institution of higher education before the 2023 fall semester 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 \_\_\_\_\_. The change in law made by this Act to Section 61.0595, Education Code, applies beginning with funding recommendations made under Section 61.059, Education Code, for the state fiscal biennium beginning September 1, 2023, for semester credit hours earned by students initially enrolling in an associate degree program at a public institution of higher education for the 2023 fall semester or a subsequent semester or term. Funding recommendations for semester credit hours earned by a student who initially enrolled in an associate degree program at a public institution of higher education before the 2023 fall semester are 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.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 1531**.

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

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 28, 2021 - 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 CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 954** (128 Yeas, 19 Nays, 1 Present, not voting)

**HB 1578** (135 Yeas, 10 Nays, 2 Present, not voting)

**HB 1900** (88 Yeas, 57 Nays, 1 Present, not voting)

**HB 2219** (112 Yeas, 36 Nays, 1 Present, not voting)

**HB 2382** (107 Yeas, 41 Nays, 1 Present, not voting)

**HB 2610** (117 Yeas, 31 Nays, 1 Present, not voting)

**HB 2757** (134 Yeas, 12 Nays, 2 Present, not voting)

**HB 3131** (147 Yeas, 0 Nays, 1 Present, not voting)

**HB 3571** (144 Yeas, 0 Nays, 2 Present, not voting)

**HB 3617** (99 Yeas, 49 Nays, 1 Present, not voting)

**HB 3643** (106 Yeas, 40 Nays, 1 Present, not voting)

**HB 3767** (98 Yeas, 49 Nays, 1 Present, not voting)

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

**HB 525**

House Conferees: Shaheen - Chair/Guillen/Hull/Krause/Noble

**HB 1758**

House Conferees: Krause - Chair/Bowers/Martinez/Patterson/Tinderholt

**HB 3720**

House Conferees: Frank - Chair/González, Mary/Guillen/Klick/Noble

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

**SB 2**

**SB 3**

**SB 15**

**SB 23**

**SB 64**

**SB 204**

**SB 572**

**SB 766**

**SB 794**

**SB 800**

**SB 1164**

**SB 1648**

**SB 1776**

**SB 1816**

**SB 2038**

**SB 2124**

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### CONFERENCE COMMITTEE ON HOUSE BILL 1560

Senator Buckingham 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 1560** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1560** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Buckingham, Chair; Paxton, Campbell, Lucio, and Schwertner.

### SENATE BILL 1267 WITH HOUSE AMENDMENTS

Senator West called **SB 1267** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Amendment

#### A BILL TO BE ENTITLED AN ACT

relating to continuing education and training requirements for educators and other school district personnel.

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

SECTION 1. Section 7.058, Education Code, is amended to read as follows:

Sec. 7.058. RESEARCH ON MATHEMATICS SKILLS ACQUISITION AND PROGRAM EFFECTIVENESS. From funds appropriated for the purpose, the commissioner shall award to one or more institutions that have demonstrated an ability to conduct science-based research on effective instructional strategies that improve student performance in mathematics a grant to be used to:

(1) develop and identify research on mathematics skills acquisition and student learning in mathematics;

(2) monitor the effectiveness of mathematics achievement academies [~~professional development institutes~~] under Section 21.4553 [~~21.455~~] based on performance in mathematics by the students of teachers who have attended an academy [~~institute~~];

(3) examine the effect of mathematics achievement academies [~~professional development institutes~~] on the classroom performance of teachers who have attended an academy [~~institute~~];

(4) identify common practices used at high-performing school campuses that lead to improved student performance in mathematics; and

(5) develop research on cognitive development in children concerning mathematics skills development.

SECTION 2. Section 21.054, Education Code, is amended by adding Subsection (a-1) and amending Subsections (d), (e), and (f) to read as follows:

(a-1) Continuing education requirements for educators must include training regarding educating students with disabilities.

(d) Continuing education requirements for a classroom teacher must provide that not more than ~~[at least]~~ 25 percent of the training required every five years include instruction regarding:

(1) collecting and analyzing information that will improve effectiveness in the classroom;

(2) recognizing early warning indicators that a student may be at risk of dropping out of school;

(3) digital learning, digital teaching, and integrating technology into classroom instruction;

(4) educating diverse student populations, including:

(A) ~~[students who are eligible to participate in special education programs under Subchapter A, Chapter 29;~~

~~[(B) students who are eligible to receive educational services required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);~~

~~[(C) students with mental health conditions or who engage in substance abuse;~~

~~[(D) students with intellectual or developmental disabilities;~~

~~[(E) students who are educationally disadvantaged; and~~

~~(B) [(F) students of limited English proficiency; and~~

~~[(G) students at risk of dropping out of school; and~~

(5) understanding appropriate relationships, boundaries, and communications between educators and students~~]; and~~

~~[(6) how mental health conditions, including grief and trauma, affect student learning and behavior and how evidence based, grief informed, and trauma informed strategies support the academic success of students affected by grief and trauma].~~

(e) Continuing education requirements for a principal must provide that not more than ~~[at least]~~ 25 percent of the training required every five years include instruction regarding:

(1) effective and efficient management, including:

(A) collecting and analyzing information;

(B) making decisions and managing time; and

(C) supervising student discipline and managing behavior;

(2) recognizing early warning indicators that a student may be at risk of dropping out of school;

(3) digital learning, digital teaching, and integrating technology into campus curriculum and instruction;

(4) effective implementation of a comprehensive school counseling program under Section 33.005;

(5) mental health programs addressing a mental health condition;

(6) educating diverse student populations, including:



(A) ~~[students who are eligible to participate in special education programs under Subchapter A, Chapter 29;~~

~~[(B) students with intellectual or developmental disabilities;~~

~~[(C) students who are eligible to receive educational services required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);~~

~~[(D) students with mental health conditions or who engage in substance abuse;~~

~~[(E) students who are educationally disadvantaged;~~

~~[(F) students of limited English proficiency; and~~

~~[(G) students at risk of dropping out of school; and~~

(7) preventing, recognizing, and reporting any sexual conduct between an educator and student that is prohibited under Section 21.12, Penal Code, or for which reporting is required under Section 21.006 of this code~~;~~ ~~and~~

~~[(8) how mental health conditions, including grief and trauma, affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma].~~

(f) Continuing education requirements for a counselor must provide that not more than ~~[at least]~~ 25 percent of training required every five years include instruction regarding:

(1) assisting students in developing high school graduation plans;

(2) implementing dropout prevention strategies;

(3) informing students concerning:

(A) college admissions, including college financial aid resources and application procedures; and

(B) career opportunities;

(4) counseling students concerning mental health conditions and substance abuse, including through the use of grief-informed and trauma-informed interventions and crisis management and suicide prevention strategies; and

(5) effective implementation of a comprehensive school counseling program under Section 33.005.

SECTION 3. Sections 21.451(d), (d-1), and (d-3), Education Code, are amended to read as follows:

(d) The staff development:

(1) may include training in:

(A) technology and digital learning; and

(B) positive behavior intervention and support strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Chapter 37; ~~and~~

~~[(C) digital learning;]~~

(2) subject to Subsection (e) and to Section 21.3541 and rules adopted under that section, must include training that is evidence-based, as defined by Section 8101, Every Student Succeeds Act (20 U.S.C. Section 7801), and that:

(A) relates to instruction of students with disabilities, including students with disabilities who also have other intellectual or mental health conditions; and

(B) is designed for educators who work primarily outside the area of special education; and

(3) must include training on:

- (A) suicide prevention;
- (B) ~~[recognizing signs of mental health conditions and substance abuse;~~  
~~[(C)] strategies for establishing and maintaining positive relationships~~  
among students, including conflict resolution;
- ~~[(D)] how grief and trauma affect student learning and behavior and how~~  
~~evidence-based, grief-informed, and trauma-informed strategies support the academic~~  
~~success of students affected by grief and trauma;~~ and
- (C) [(E)] preventing, identifying, responding to, and reporting incidents  
of bullying.

(d-1) The training required by Subsection (d)(3):

(1) must:

(A) be provided in accordance with the policy adopted under Section  
21.4515;~~±~~

~~[(i)] on an annual basis, as part of a new employee orientation, to all~~  
~~new school district and open enrollment charter school educators; and~~

~~[(ii)] to existing school district and open enrollment charter school~~  
~~educators on a schedule adopted by the agency by rule;]~~ and

(B) use a best practice-based program recommended by the Health and  
Human Services Commission in coordination with the agency under Section 38.351;  
and

(2) may include two or more listed topics together.

(d-3) The technology and digital learning training provided by Subsection  
(d)(1)(A) [(d)(1)(E)] must:

(1) discuss basic technology proficiency expectations and methods to  
increase an educator's digital literacy; and

(2) assist an educator in the use of digital technology in learning activities  
that improve teaching, assessment, and instructional practices.

SECTION 4. Subchapter J, Chapter 21, Education Code, is amended by adding  
Sections 21.4514 and 21.4515 to read as follows:

Sec. 21.4514. CONTINUING EDUCATION AND TRAINING  
CLEARINGHOUSE; ADVISORY GROUP. (a) In this section:

(1) "Board" means the State Board for Educator Certification.

(2) "Clearinghouse advisory group" means the clearinghouse advisory  
group established under Subsection (d).

(b) The board shall publish a comprehensive clearinghouse of information  
regarding continuing education and training requirements for:

(1) educators; and

(2) other school personnel.

(c) The clearinghouse must:

(1) include best practices and industry recommendations for the frequency  
for training of educators and other school personnel; and

(2) be published in consultation with the clearinghouse advisory group.

(d) The board shall establish a clearinghouse advisory group consisting of  
educators, including classroom teachers, and representatives of organizations that  
represent educators to review and provide input regarding the best practices and

industry recommendations included in the clearinghouse. In publishing the clearinghouse, the board shall ensure the clearinghouse reflects input provided by the clearinghouse advisory group.

(e) Not later than December 1 of each even-numbered year, the clearinghouse advisory group shall complete a review of the clearinghouse and submit a report to the legislature of the group's recommendations regarding whether any required continuing education or training may be reduced, eliminated, or consolidated with other existing continuing education or training.

Sec. 21.4515. ANNUAL ADOPTION OF PROFESSIONAL DEVELOPMENT POLICY. (a) The board of trustees of a school district and the governing body of an open-enrollment charter school, to the extent applicable, shall annually review the clearinghouse published under Section 21.4514 and adopt a professional development policy that must:

(1) be guided by the recommendations for training in the clearinghouse;  
(2) note any differences in the policy adopted by the district or school from the recommendations in the clearinghouse; and  
(3) include a schedule of all training required for educators or other school personnel at the district or school.

(b) To the extent of any conflict, a frequency requirement for the completion of training provided by statute prevails over a frequency requirement for that training included in the policy adopted by the board of trustees of a school district or the governing body of an open-enrollment charter school under Subsection (a).

(c) The commissioner may not adopt rules regarding a required frequency for the completion of training unless:

(1) a frequency is provided by statute for that training; and  
(2) the commissioner is granted explicit rulemaking authority related to that training.

SECTION 5. Section 21.4552, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (b-1) to read as follows:

(a) The commissioner shall develop and make available literacy achievement academies for teachers who provide reading instruction to students at any grade level [at the kindergarten or first, second, or third grade level].

(b) A literacy achievement academy developed under this section:

(1) for teachers who provide reading instruction to students at the kindergarten or first, second, or third grade level:

(A) [~~1~~] must include training in:

(i) [~~A~~] effective and systematic instructional practices in reading, including phonemic awareness, phonics, fluency, vocabulary, and comprehension; and

(ii) [~~B~~] the use of empirically validated instructional methods that are appropriate for struggling readers; and

(B) [~~2~~] may include training in effective instructional practices in writing;

(2) for teachers who provide reading instruction to students at the fourth or fifth grade level:

(A) must include effective instructional practices that promote student development of reading comprehension and inferential and critical thinking;

(B) must provide training in the use of empirically validated instructional methods that are appropriate for struggling readers; and

(C) may include material on writing instruction;

(3) for teachers who provide reading instruction to students at the seventh or eighth grade level, must include training in:

(A) administration of the reading instrument required by Section 28.006(c-1); and

(B) interpretation of the results of the reading instrument required by Section 28.006(c-1) and strategies, based on scientific research regarding effective reading instruction, for long-term intensive intervention to target identified student needs in word recognition, vocabulary, fluency, and comprehension;

(4) for teachers who provide reading instruction to students at the sixth, seventh, or eighth grade level, must include training in:

(A) strategies to be implemented in English language arts and other subject areas for multisyllable word reading, vocabulary development, and comprehension of expository and narrative text;

(B) an adaptation framework that enables teachers to respond to differing student strengths and needs, including adaptations for students of limited English proficiency or students receiving special education services under Subchapter A, Chapter 29;

(C) collaborative strategies to increase active student involvement and motivation to read; and

(D) other areas identified by the commissioner as essential components of reading instruction; and

(5) for teachers who provide instruction in mathematics, science, or social studies to students at the sixth, seventh, or eighth grade level, must include training in:

(A) strategies for incorporating reading instruction into the curriculum for the subject area taught by the teacher; and

(B) other areas identified by the commissioner.

(b-1) The completion of a literacy achievement academy under this section by an educator who teaches students with dyslexia satisfies:

(1) the training requirement under Section 21.054(b); and

(2) a training requirement adopted by the State Board of Education pursuant to Section 38.003 related to the screening or treatment of a student for dyslexia or a related disorder.

(c) The commissioner shall adopt criteria for selecting teachers who may attend a literacy achievement academy. In adopting selection criteria under this subsection, the commissioner shall:

(1) require a teacher to attend a literacy achievement academy if the teacher provides instruction in reading, mathematics, science, or social studies to students at the sixth, seventh, or eighth grade level at a campus that fails to satisfy any standard under Section 39.054(e) on the basis of student performance on the reading assessment instrument administered under Section 39.023(a) to students in any grade level at the campus;

(2) grant ~~[granting a]~~ priority to teachers employed by a school district at a campus at which 50 percent or more of the students enrolled are educationally disadvantaged; and

(3) ~~[(2)]~~ provide a process through which a teacher not employed at a campus described by Subdivision (2) ~~[(4)]~~ may attend the academy if the academy has available space and the school district employing the teacher pays the costs of the teacher's attendance.

SECTION 6. Sections 21.4553(a) and (b), Education Code, are amended to read as follows:

(a) The commissioner shall develop and make available mathematics achievement academies for teachers who provide mathematics instruction to students at any grade level ~~[the kindergarten or first, second, or third grade level].~~

(b) A mathematics achievement academy developed under this section must, if appropriate for the grade level at which the teacher provides instruction, include training in:

(1) effective and systematic instructional practices in mathematics, including problem solving, the place value system, whole number operations, and fractions;

(2) the underlying mathematical skills required to be taught; and

(3) mathematical instruction techniques that, through scientific testing, have been proven effective.

SECTION 7. Subchapter J, Chapter 21, Education Code, is amended by adding Section 21.4571 to read as follows:

Sec. 21.4571. TEXAS ENGLISH LANGUAGE PROFICIENCY ASSESSMENT SYSTEM TRAINING. (a) The commissioner may not require a school district employee to repeat training or online calibration activities the employee has previously successfully completed related to administering the Texas English Language Proficiency Assessment System, except that the commissioner may require the employee to complete training or online calibration activities if the administration of or assessment using the Texas English Language Proficiency Assessment System has changed significantly since the employee completed the training.

(b) The school district employee assigned to oversee the administration of the Texas English Language Proficiency Assessment System at a district campus may, with discretion, require other district employees involved in administering the Texas English Language Proficiency Assessment System to complete training or online calibration activities described by Subsection (a).

(c) A school district employee may not be required to complete a training or online calibration activity described by Subsection (a) in one sitting.

SECTION 8. Sections 21.458(b) and (b-1), Education Code, are amended to read as follows:

(b) The commissioner shall adopt rules necessary to administer this section, including rules concerning the duties and qualifications of a teacher who serves as a mentor and the number of classroom teachers that may be assigned to a mentor. The rules concerning qualifications must require that to serve as a mentor a teacher must:

(1) complete a research-based mentor and induction training program approved by the commissioner;

(2) complete a mentor training program provided by the district, which the district may allow to be satisfied by completing the training program described by Subdivision (1);

(3) have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance; and

(4) demonstrate interpersonal skills, instructional effectiveness, and leadership skills.

(b-1) A school district must provide training as described by Subsection (b)(2) to mentor teachers and any appropriate district and campus employees who work with the classroom teacher or supervise the classroom teacher. A district may allow a training program approved by the commissioner under Subsection (b)(1) to qualify for the training required by this section. The training must be completed by the mentor teacher and the district and campus employees before the beginning of the school year. The district shall also provide supplemental training to mentor teachers and employees during the school year. The training must include content related to best mentorship practices.

SECTION 9. Section 22.902(a), Education Code, is amended to read as follows:

(a) A school district shall, in accordance with the policy adopted under Section 21.4515, ~~annually~~ make available to district employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator, as defined by Section 779.001, Health and Safety Code.

SECTION 10. Section 28.006(g-1), Education Code, is amended to read as follows:

(g-1) A school district shall provide additional reading instruction and intervention to each student in seventh grade assessed under Subsection (c-1), as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument. Training and support for activities required by this subsection shall be provided by regional education service centers and teacher literacy achievement [reading] academies established under Section 21.4552 ~~[21.4551]~~, and may be provided by other public and private providers.

SECTION 11. Section 28.0062(a), Education Code, is amended to read as follows:

(a) Each school district and open-enrollment charter school shall:

(1) provide for the use of a phonics curriculum that uses systematic direct instruction in kindergarten through third grade to ensure all students obtain necessary early literacy skills;

(2) ensure that:

(A) not later than the 2022-2023 ~~[2021-2022]~~ school year, each classroom teacher in kindergarten or first, second, or third grade and each principal at a campus with kindergarten or first, second, or third grade has attended a teacher literacy achievement academy developed under Section 21.4552; and

(B) each classroom teacher and each principal initially employed in a grade level or at a campus described by Paragraph (A) for the 2022-2023 [~~2021-2022~~] school year or a subsequent school year has attended a teacher literacy achievement academy developed under Section 21.4552 before the teacher's or principal's first year of placement in that grade level or campus; and

(3) certify to the agency that the district or school:

(A) prioritizes placement of highly effective teachers in kindergarten through second grade; and

(B) has integrated reading instruments used to diagnose reading development and comprehension to support each student in prekindergarten through third grade.

SECTION 12. Section 29.063, Education Code, is amended by adding Subsection (e) to read as follows:

(e) The agency may not require members of a language proficiency assessment committee to complete training to serve on that committee.

SECTION 13. Section 33.086(b), Education Code, is amended to read as follows:

(b) Each school district shall adopt, in accordance with the policy adopted under Section 21.4515, procedures necessary for administering this section, including procedures for the time and manner in which proof of current certification must be submitted.

SECTION 14. Sections 33.202(b) and (c), Education Code, are amended to read as follows:

(b) The following persons must satisfactorily complete the safety training program in accordance with the policy adopted under Section 21.4515:

(1) a coach, trainer, or sponsor for an extracurricular athletic activity; and

~~(2) [except as provided by Subsection (f), a physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity; and~~

~~[(3)]~~ a director responsible for a school marching band.

(c) The safety training program must include:

(1) certification of participants by the American Red Cross, the American Heart Association, or a similar organization or by the University Interscholastic League;

(2) current training in:

(A) emergency action planning;

~~(B) [cardiopulmonary resuscitation if the person is not required to obtain certification under Section 33.086;~~

~~[(C)]~~ communicating effectively with 9-1-1 emergency service operators and other emergency personnel; and

~~[(D)]~~ recognizing symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and

(3) [~~at least once each school year,~~] a safety drill that incorporates the training described by Subdivision (2) and simulates various injuries described by Subdivision (2)(C) [~~(2)(D)~~].

SECTION 15. Section 37.0831(b), Education Code, is amended to read as follows:

(b) A dating violence policy must:

(1) include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Section 71.0021, Family Code; and

(2) address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators at each district campus that instructs students in grade six or higher, counseling for affected students, and awareness education for students and parents.

SECTION 16. Sections 38.0041(c) and (d), Education Code, are amended to read as follows:

(c) The methods under Subsection (b)(1) for increasing awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children must include training, as provided by this subsection, concerning prevention techniques for and recognition of sexual abuse, sex trafficking, and all other maltreatment of children, including the sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities. The training:

(1) must be provided in accordance with the policy adopted under Section 21.4515 [~~as part of a new employee orientation, to all new school district and open enrollment charter school employees and to existing district and open enrollment charter school employees on a schedule adopted by the agency by rule until all district and open enrollment charter school employees have taken the training~~]; and

(2) must include training concerning:

(A) factors indicating a child is at risk for sexual abuse, sex trafficking, or other maltreatment;

(B) likely warning signs indicating a child may be a victim of sexual abuse, sex trafficking, or other maltreatment;

(C) internal procedures for seeking assistance for a child who is at risk for sexual abuse, sex trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;

(D) techniques for reducing a child's risk of sexual abuse, sex trafficking, or other maltreatment; and

(E) community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.

(d) For any training under Subsection (c), each school district and open-enrollment charter school shall maintain records that include the [~~name of each~~] district or charter school staff members [~~member~~] who participated in the training.

SECTION 17. Section 38.030(g), Education Code, is amended to read as follows:



(g) The course of instruction for training described under Subsection (f) may ~~[not]~~ be provided as an online course. The course of instruction must use nationally recognized, evidence-based guidelines for bleeding control and must incorporate instruction on the psychomotor skills necessary to use a bleeding control station in the event of an injury to another person, including instruction on proper chest seal placement.

SECTION 18. Section 38.036, Education Code, is amended by amending Subsections (c) and (d) and adding Subsection (c-1) to read as follows:

(c) The methods under Subsection (b)(1) for increasing awareness and implementation of trauma-informed care must include training as provided by this subsection. The training must:

(1) be provided:

(A) ~~[(4)]~~ through a program selected from the list of recommended best practice-based programs and research-based practices established under Section 38.351 ~~[461.325, Health and Safety Code]~~; and

(B) in accordance with the policy adopted under Section 21.4515 ~~[(2) as part of any new employee orientation for all new school district educators]~~; and

(2) address how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma

~~[(3) to existing school district educators on a schedule adopted by the agency by rule that requires educators to be trained at intervals necessary to keep educators informed of developments in the field].~~

(c-1) The training under Subsection (c) may include two or more listed topics together.

(d) For any training under Subsection (c), each school district shall maintain records that include the ~~[name of each]~~ district staff members ~~[member]~~ who participated in the training.

SECTION 19. Section 38.210(b), Education Code, is amended to read as follows:

(b) Training required under this section must:

(1) include information on:

(A) recognizing the signs and symptoms of anaphylaxis;

(B) administering an epinephrine auto-injector;

(C) implementing emergency procedures, if necessary, after administering an epinephrine auto-injector; and

(D) properly disposing of used or expired epinephrine auto-injectors;

~~[and]~~

(2) be provided in a formal training session or through online education; and

(3) be provided in accordance with the policy adopted under Section 21.4515 ~~[and be completed annually]~~.

SECTION 20. Section 38.351(h), Education Code, is amended to read as follows:

(h) If a school district provides the training under Subsection (g), the school district shall:

(1) require completion of the training in accordance with the policy adopted under Section 21.4515 [a school district employee described under that subsection must participate in the training at least one time]; and

(2) [the school district shall] maintain records that include the [name of each] district employees [employee] who participated in the training.

SECTION 21. Section 39.0304, Education Code, is amended by amending Subsection (a) and adding Subsections (b-1) and (b-2) to read as follows:

(a) To ensure that each administration of assessment instruments under Section 39.023 is valid, reliable, and in compliance with the requirements of this subchapter, the commissioner may require training for school district employees involved in the administration of the assessment instruments, subject to Subsection (b-1).

(b-1) The commissioner may only require the employee at each district campus who oversees the administration of the assessment instruments to annually receive the training required under Subsection (a).

(b-2) The school district employee who oversees test administration on a district campus may, with discretion, require other district employees involved in the administration of assessment instruments to repeat the training under Subsection (a).

SECTION 22. Section 39.408, Education Code, is amended to read as follows:

Sec. 39.408. ELIGIBILITY CRITERIA FOR CERTAIN GRANT PROGRAMS. A school district or campus is eligible to participate in programs under Sections [21.4541,] 29.095[;] and 29.096 if the district or campus exhibited during each of the three preceding school years characteristics that strongly correlate with high dropout rates.

SECTION 23. The following provisions of the Education Code are repealed:

(1) Section 21.054(d-2), as amended by Chapter 464 (S.B. 11) and Chapter 352 (H.B. 18), Acts of the 86th Legislature, Regular Session, 2019;

(2) Section 21.054(e-2);

(3) Section 21.454;

(4) Section 21.4541;

(5) Section 21.455;

(6) Section 21.4551;

(7) Section 21.4554;

(8) Section 28.013(d);

(9) Sections 33.202(d), (e), and (f);

(10) Section 34.0021; and

(11) Section 38.036(e).

SECTION 24. To the extent of any conflict, this Act prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 25. (a) Not later than June 1, 2022, the State Board for Educator Certification shall publish the continuing education and training clearinghouse required by Section 21.4514, Education Code, as added by this Act.

(b) Not later than August 1, 2022, each school district shall adopt a professional development policy for district personnel in accordance with Section 21.4515, Education Code, as added by this Act.

(c) Except as provided by Subsection (b) of this section, this Act applies beginning with the 2021-2022 school year.

SECTION 26. The Texas Education Agency is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Texas Education Agency may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

SECTION 27. 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, 2021.

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

Amend **CSSB 1267** (house committee report) as follows:

(1) On page 2, line 4, strike "Subsections (d), (e), and (f)" and substitute "Subsections (d) and (e)".

(2) On page 5, strike lines 1 through 16.

### **Floor Amendment No. 2**

Amend **CSSB 1267** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 37.0021, Education Code, is amended by amending Subsection (d) and adding Subsection (j) to read as follows:

(d) Subject to Subsection (j), the ~~[The]~~ commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:

(1) be consistent with:

(A) professionally accepted practices and standards of student discipline and techniques for behavior management; and

(B) relevant health and safety standards; and

(2) identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique.

(j) A peace officer performing law enforcement duties or school security personnel performing security-related duties on school property or at a school-sponsored or school-related activity may not restrain or use a chemical irritant spray on a student 10 years of age or younger unless the student poses a serious risk of harm to the student or another person.

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

Amend **SB 1267** on third reading as follows:

(1) In the SECTION of the bill amending Section 38.0041(c), Education Code, in amended Subdivision (1) of that subsection, strike "(1) must be provided in accordance with the policy adopted under Section 21.4515 [~~as part of a new employee orientation, to all new school district and open enrollment charter school employees and~~]" and substitute the following:

(1) must be provided:

(A) in accordance with the policy adopted under Section 21.4515; and

(B) [5] as part of a new employee orientation [5] to all new school district and open-enrollment charter school employees [~~and~~]

(2) In the SECTION of the bill amending Section 38.036(c)(1), Education Code, in added Paragraph (A) of that subdivision, strike "and".

(3) In the SECTION of the bill amending Section 38.036(c)(1), Education Code, in added Paragraph (B) of that subdivision, strike "Section 21.4515 [~~(2) as part of any new employee orientation for all new school district educators~~]; and" and substitute the following:

Section 21.4515; and

(C) [~~(2)~~] as part of any new employee orientation for all new school district educators; and

The amendments were read.

Senator West 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 President asked if there were any motions to instruct the conference committee on **SB 1267** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Powell, Bettencourt, Perry, and Taylor.

**SENATE BILL 1281 WITH HOUSE AMENDMENTS**  
**(Motion In Writing)**

Senator Hancock called **SB 1281** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment**

A BILL TO BE ENTITLED  
AN ACT

relating to a reliability assessment of the ERCOT power grid and certificates of public convenience and necessity for certain transmission projects.

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

SECTION 1. Section 37.052, Utilities Code, is amended by adding Subsection (c) to read as follows:

(c) An electric utility is not required to amend the utility's certificate of public convenience and necessity to construct a transmission line that connects the utility's existing transmission facilities to a load-serving substation or metering point if:

(1) the transmission line does not exceed three miles in length;

(2) each landowner whose property would be directly affected by the transmission line, as provided by commission rules, provides written consent for the transmission line; and

(3) all rights-of-way necessary for construction of the transmission line have been purchased.

SECTION 2. Section 37.056, Utilities Code, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

(c-1) In considering the need for additional service under Subsection (c)(2) for a reliability transmission project that serves the ERCOT power region, the commission must consider the following:

(1) historical load, forecasted load growth, and additional load currently seeking interconnection; and

(2) security constrained optimal power flows for a reasonable range of power generation dispatch scenarios, including reliability limitations in serving load during high and low renewable generation output.

(d) The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region, that is not necessary to meet state or federal reliability standards, and that is not included in a plan developed under Section 39.904(g) [~~does not serve a competitive renewable energy zone~~]. The criteria must include a comparison of the estimated cost of the transmission project for consumers and the estimated congestion cost savings for consumers that may result from the transmission project, considering both current and future expected congestion levels and the transmission project's ability to reduce those congestion levels. The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria.

SECTION 3. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.159 to read as follows:

Sec. 39.159. GRID RELIABILITY ASSESSMENT. (a) The independent organization certified under Section 39.151 for the ERCOT power region shall conduct an annual assessment of the ERCOT power grid to assess the grid's reliability in extreme weather scenarios.

(b) Each assessment must:

(1) consider the impact of different levels of thermal and renewable generation availability; and

(2) recommend transmission projects that may increase the grid's reliability in extreme weather scenarios.

SECTION 4. The changes in law made by this Act apply only to a proceeding affecting a certificate of public convenience and necessity that commences on or after the effective date of this Act. A proceeding affecting a certificate of public

convenience and necessity that commenced before the effective date of this Act is governed by the law in effect on the date the proceeding is commenced, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2021.

**Floor Amendment No. 1**

Amend **CSSB 1281** (house committee printing) as follows:

(1) On page 1, line 11, strike "load-serving".

(2) On page 2, strike lines 2 through 8 and substitute the following:

historical load, forecasted load growth, and additional load currently seeking interconnection.

The amendments were read.

Senator Hancock 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 President asked if there were any motions to instruct the conference committee on **SB 1281** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Hancock, Chair; Nichols, Johnson, Campbell, and Zaffirini.

**AT EASE**

The President at 3:04 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

**IN LEGISLATIVE SESSION**

President Pro Tempore Birdwell at 5:43 p.m. called the Senate to order as In Legislative Session.

**SENATE BILL 331 WITH HOUSE AMENDMENT**

Senator Johnson called **SB 331** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

**Amendment**

**A BILL TO BE ENTITLED  
AN ACT**

relating to eligibility to serve as an interpreter in an election.

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

SECTION 1. Section 61.032, Election Code, is amended to read as follows:

Sec. 61.032. INTERPRETER PERMITTED. If an election officer who attempts to communicate with a voter does not understand the language used by the voter, the voter may communicate through an interpreter selected by the voter or, if the voter has not selected an interpreter, any interpreter an election officer may appoint.

SECTION 2. Section 61.033, Election Code, is amended to read as follows:

Sec. 61.033. ELIGIBILITY TO SERVE AS INTERPRETER. To be eligible to serve as an interpreter, a person:

(1) may be any person other than the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs; and

(2) if appointed to serve as an interpreter by an election officer, must be a registered voter of the county in which the voter needing the interpreter resides or a registered voter of an adjacent county.

SECTION 3. Section 61.034, Election Code, is amended to read as follows:

Sec. 61.034. TRANSLATING BALLOT. If a voter cannot comprehend the language in which the ballot is printed, the voter may receive assistance in accordance with Subchapter B, Chapter 64 ~~[an interpreter may accompany the voter to the voting station for the purpose of translating the ballot to the voter].~~

SECTION 4. Section 61.035, Election Code, is amended to read as follows:

Sec. 61.035. OATH. (a) Before serving as an interpreter, the person selected as interpreter must take the following oath administered by an election officer:

"I swear (or affirm) that, to the best of my ability, I will correctly interpret and translate each question, answer, or statement addressed either to the voter by any election officer or to an election officer by the voter."

(b) A person who will be providing ballot assistance under Section 61.034 must also take the oath required by Subchapter B, Chapter 64, and meet all other requirements of that subchapter.

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, 2021.

The amendment was read.

Senator Johnson moved to concur in the House amendment to **SB 331**.

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

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 28, 2021 - 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:

**SB 768** Huffman Sponsor: Johnson, Ann  
Relating to increasing the criminal penalties for manufacture or delivery of fentanyl and related substances; creating a criminal offense.

**SB 967** Kolkhorst Sponsor: Klick  
Relating to the expiration and extension of certain public health orders issued by a health authority.  
(Committee Substitute/Amended)

**SB 969** Kolkhorst Sponsor: Klick  
Relating to reporting procedures for and information concerning public health disasters and to certain public health studies; providing a civil penalty.  
(Amended)

**SB 970** Kolkhorst Sponsor: Shaheen  
Relating to the repeal of certain provisions related to health and human services.  
(Amended)

**SB 1495** Huffman Sponsor: Turner, John  
Relating to certain criminal offenses related to highways and motor vehicles; creating a criminal offense; increasing a criminal penalty.  
(Committee Substitute)

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

**HB 4** (147 Yeas, 0 Nays, 1 Present, not voting)

**HB 295** (148 Yeas, 0 Nays, 1 Present, not voting)

**HB 700** (138 Yeas, 9 Nays, 1 Present, not voting)

**HB 988** (146 Yeas, 0 Nays, 1 Present, not voting)

**HB 999** (146 Yeas, 0 Nays, 1 Present, not voting)

**HB 1164** (139 Yeas, 5 Nays, 1 Present, not voting)

**HB 1919** (124 Yeas, 21 Nays, 1 Present, not voting)

**HB 3415** (138 Yeas, 7 Nays, 1 Present, not voting)

**HB 3452** (131 Yeas, 15 Nays, 1 Present, not voting)

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 5** (133 Yeas, 13 Nays, 2 Present, not voting)

**HB 3282** (145 Yeas, 2 Nays, 1 Present, not voting)

**SB 13** (121 Yeas, 26 Nays, 1 Present, not voting)

**SB 295** (135 Yeas, 9 Nays, 1 Present, not voting)

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:



**HB 3979**

Pursuant to a sustained point of order due to non-germane amendments, the house returns HB 3979 to the senate for further consideration.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 28, 2021 - 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 246** (146 Yeas, 0 Nays, 1 Present, not voting)

**HB 1681** (114 Yeas, 33 Nays, 1 Present, not voting)

**HB 2025** (142 Yeas, 0 Nays, 1 Present, not voting)

**HB 2211** (143 Yeas, 1 Nays, 1 Present, not voting)

**HB 2283** (96 Yeas, 50 Nays, 1 Present, not voting)

**HB 2607** (88 Yeas, 58 Nays, 1 Present, not voting)

**HB 3203** (120 Yeas, 22 Nays, 1 Present, not voting)

**HB 3807** (137 Yeas, 10 Nays, 1 Present, not voting)

**HB 4628** (104 Yeas, 42 Nays, 1 Present, not voting)

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

**HB 492**

House Conferees: Wu - Chair/Collier/Johnson, Ann/King, Phil/White

**HB 769**

House Conferees: Middleton - Chair/Canales/Dominguez/Hunter/Lozano

**HB 1818**

House Conferees: Patterson - Chair/Jetton/Ordaz Perez/Shahen/Turner, Chris

**HB 1869**

House Conferees with Instructions: Burrows -  
Chair/Cyrier/Meyer/Middleton/Rodriguez

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

**SB 155**

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE BILL 1132 WITH HOUSE AMENDMENT**

Senator Johnson called **SB 1132** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

**Amendment**

A BILL TO BE ENTITLED  
AN ACT

relating to the regulation of crafted precious metal dealers; authorizing the change of a fee.

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

SECTION 1. Section 1956.051, Occupations Code, is amended by amending Subdivision (3) and adding Subdivision (5-a) to read as follows:

(3) "Crafted precious metal" means jewelry, silverware, an art object, or another object, made wholly or partly from precious metal and used primarily for personal, family, or household purchases. The term does not include:

(A) [~~other than~~] a coin;

(B) [~~;~~] a bar;

(C) [~~;~~] a commemorative medallion;

(D) an item selling at 105 percent or more of [~~or scrap or a broken item selling at five percent or more than~~] the scrap value of the item;

(E) an item made wholly or partly from precious metal and used for a dental, pharmaceutical, or medical application; or

(F) an item made wholly or partly from precious metal extracted, recovered, or salvaged from an industrial by-product or industrial waste product.

(5-a) "Jewelry store" means a retail establishment that derives 75 percent or more of its annual revenue from the sale to consumers of crafted precious metal or other items of personal adornment, including watches, bracelets, necklaces, brooches, rings, and earrings.

SECTION 2. Section 1956.0612(c), Occupations Code, is amended to read as follows:

(c) The commissioner shall prescribe the processing fee in an amount necessary to cover the costs of administering this subchapter [~~section~~].

SECTION 3. Section 1956.0613, Occupations Code, is amended to read as follows:

Sec. 1956.0613. INVESTIGATION BY COMMISSIONER. The commissioner shall:

(1) monitor the operations of a dealer to ensure compliance with this subchapter ~~[chapter]~~; and

(2) receive and investigate complaints against a dealer or a person acting as a dealer.

SECTION 4. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Section 1956.06131 to read as follows:

Sec. 1956.06131. EXAMINATION BY COMMISSIONER. (a) At the times the commissioner considers necessary, the commissioner or the commissioner's representative may:

(1) examine each place of business of each dealer; and

(2) investigate the dealer's transactions and records, including books, accounts, papers, and correspondence, to the extent the transactions and records pertain to the business regulated under this subchapter.

(b) A dealer shall:

(1) give the commissioner or the commissioner's representative free access to the dealer's office, place of business, files, safes, and vaults; and

(2) allow the commissioner or the representative to make a copy of an item that may be investigated under Subsection (a)(2).

(c) The commissioner or the commissioner's representative shall examine under Subsection (a) at least 10 dealers each calendar year.

(d) This section does not apply with respect to a jewelry store.

SECTION 5. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Section 1956.0616 to read as follows:

Sec. 1956.0616. NOTICE OF ENFORCEMENT ORDER. (a) As soon as practicable after an enforcement order against a dealer for a violation of this subchapter becomes final, including an order assessing an administrative penalty or an order to pay restitution under Section 14.251(b)(3), Finance Code, the commissioner shall provide notice of the order to:

(1) the chief of police of the municipality in which the violation occurred; or

(2) the sheriff of the county in which the violation occurred, if the violation did not occur in a municipality.

(b) The notice must include:

(1) a copy of the enforcement order;

(2) the information on complaint procedures described by Section 14.062(b), Finance Code; and

(3) any other information the commissioner considers necessary or proper to the enforcement of this subchapter.

SECTION 6. Sections 1956.052, 1956.053, and 1956.054, Occupations Code, are repealed.

SECTION 7. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2021.

(b) Section 1956.06131, Occupations Code, as added by this Act, takes effect January 1, 2022.

The amendment was read.

Senator Johnson moved to concur in the House amendment to **SB 1132**.

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

### **SENATE BILL 790 WITH HOUSE AMENDMENTS**

Senator Zaffirini called **SB 790** from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the House amendments before the Senate.

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

Amend **SB 790** (house committee printing) as follows:

- (1) On page 1, line 7, strike "113.9025" and substitute "140.013".
- (2) On page 1, line 11, strike "Subchapter Z, Chapter 113" and substitute "Chapter 140".
- (3) On page 1, line 12, strike "113.9025" and substitute "140.013".
- (4) On page 1, line 13, strike "113.9025" and substitute "140.013".
- (5) On page 1, line 13, strike "AIR" and substitute "AND MUNICIPAL".
- (6) On page 1, immediately after "county" each time it appears (lines 19, 21, 22, 23, and 24), insert "or municipality".
- (7) On page 1, line 20, between "air" and "ambulance", insert "or ground".

#### **Floor Amendment No. 2**

Amend **SB 790** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) In this section, "department" means the Texas Department of Insurance.

(b) The department shall conduct a study on the balance billing practices of ground ambulance service providers, the variations in prices for ground ambulance services, the proportion of ground ambulances that are in-network, trends in network inclusion, and factors contributing to the network status of ground ambulances. The department may seek the assistance of the Department of State Health Services in conducting the study.

(c) Not later than December 1, 2022, the department shall provide a written report of the results of the study conducted under Subsection (b) of this section to the governor, lieutenant governor, speaker of the house of representatives, and members of the standing committees of the legislature with primary jurisdiction over the department.

(d) This section expires September 1, 2023.

The amendments were read.

Senator Zaffirini moved to concur in the House amendments to **SB 790**.

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

**BILL SIGNED**

The President Pro Tempore announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **HB 999**.

**SENATE BILL 1580 WITH HOUSE AMENDMENT**

Senator Hancock called **SB 1580** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 1580** (house committee printing) as follows:

(1) On page 1, line 7, between "D." and "SECURITIZATION", insert "MARKET PARTICIPATION AND".

(2) On page 1, line 8, between "PURPOSE." and "The", insert "(a)".

(3) On page 2, between lines 4 and 5, insert the following:

(b) A cooperative that owes the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region amounts incurred as a result of operations during the period beginning 12:01 a.m., February 12, 2021, and ending at 11:59 p.m., February 20, 2021 shall:

(1) use all means necessary to securitize the amount owed the independent organization, calculated solely according to the protocols of the independent organization in effect during the period of emergency promulgated subject to the approval of the commission; and

(2) fully repay the amount described by Subdivision (1) immediately upon receipt of the securitized amount along with any additional amounts necessary to fully satisfy the amount owed.

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

SECTION \_\_\_\_\_. Section 39.002, Utilities Code, is amended to read as follows:

Sec. 39.002. **APPLICABILITY.** This chapter, other than Sections 39.1516, 39.155, 39.157(e), 39.159, 39.160, 39.203, 39.904, 39.9051, 39.9052, and 39.914(e), does not apply to a municipally owned utility or an electric cooperative. Sections 39.157(e), 39.203, and 39.904, however, apply only to a municipally owned utility or an electric cooperative that is offering customer choice. If there is a conflict between the specific provisions of this chapter and any other provisions of this title, except for Chapters 40 and 41, the provisions of this chapter control.

SECTION \_\_\_\_\_. Subchapter D, Chapter 39, Utilities Code, is amended by adding Sections 39.159 and 39.160 to read as follows:

Sec. 39.159. **CHARGES FOR CERTAIN MARKET PARTICIPANTS.** Notwithstanding any other law, no default or uplift charge or repayment may be allocated to or collected from a market participant that:

(1) otherwise would be subject to an uplift charge solely as a result of acting as a central counterparty clearinghouse in wholesale market transactions in the ERCOT power region; and

(2) is regulated as a derivatives clearing organization, as defined by the Commodity Exchange Act (7 U.S.C. Section 1a).

Sec. 39.160. DEFAULT OF MARKET PARTICIPANT. (a) The commission shall require that all market participants pay or make provision for the full and prompt payment of amounts owed calculated solely according to the protocols in effect during the period of emergency to the independent organization certified under Section 39.151 for the ERCOT power region to qualify, or to continue to qualify, as a market participant in the ERCOT power region.

(b) If a market participant has failed to fully repay all amounts calculated solely under the protocols in effect during the period of emergency of the independent organization certified under Section 39.151 for the ERCOT power region, the independent organization shall report the market participant as in default to the commission. The commission may not allow the independent organization to accept the defaulting market participant's loads or generation for scheduling in the ERCOT power region, or allow the defaulting market participant to be a market participant in the ERCOT power region for any purpose, until all amounts owed to the independent organization by the market participant as calculated under the protocols are paid in full.

(c) The commission and the independent organization certified under Section 39.151 for the ERCOT power region shall pursue collection in full of amounts owed to the independent organization by the defaulting market participant.

The amendment was read.

Senator Hancock moved to concur in the House amendment to **SB 1580**.

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

### **SENATE BILL 1668 WITH HOUSE AMENDMENT**

Senator Hughes called **SB 1668** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

#### **Amendment**

#### A BILL TO BE ENTITLED AN ACT

relating to certification and examination requirements for persons engaged in liquefied petroleum gas activities.

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

SECTION 1. The heading to Section 113.095, Natural Resources Code, is amended to read as follows:

Sec. 113.095. LICENSE AND EXAMINATION BY ENDORSEMENT; OUT-OF-STATE LICENSE OR CERTIFICATION.

SECTION 2. Subchapter D, Chapter 113, Natural Resources Code, is amended by adding Section 113.0955 to read as follows:

Sec. 113.0955. CERTIFICATION AND EXAMINATION BY ENDORSEMENT: NATIONALLY RECOGNIZED TRAINING. The commission by rule shall waive the requirements of Section 113.087 for an applicant for a certificate for cylinder filling who:

(1) has completed training consistent with the guidelines established by the Propane Education & Research Council;

(2) submits proof of completion of training described by Subdivision (1);

(3) submits an application for that type of certificate;

(4) pays the applicable original nonrefundable certification fee as established by the commission under Section 113.088; and

(5) completes an examination for cylinder filling that:

(A) is administered by the commission;

(B) is approved by the commission as a comparable examination to the examination administered by the commission and submits proof of completion of the examination to the commission; or

(C) uses Propane Education & Research Council training and examination materials and submits proof of completion of the examination to the commission.

SECTION 3. This Act takes effect September 1, 2021.

The amendment was read.

Senator Hughes moved to concur in the House amendment to **SB 1668**.

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

### SENATE BILL 6 WITH HOUSE AMENDMENTS

Senator Hancock called **SB 6** from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the House amendments before the Senate.

#### Amendment

#### A BILL TO BE ENTITLED AN ACT

relating to liability for certain claims arising during a pandemic or disaster related to a pandemic.

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

SECTION 1. Section 51.014(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A person may appeal from an interlocutory order of a district court, county court at law, statutory probate court, or county court that:

(1) appoints a receiver or trustee;

(2) overrules a motion to vacate an order that appoints a receiver or trustee;

(3) certifies or refuses to certify a class in a suit brought under Rule 42 of the Texas Rules of Civil Procedure;

(4) grants or refuses a temporary injunction or grants or overrules a motion to dissolve a temporary injunction as provided by Chapter 65;

(5) denies a motion for summary judgment that is based on an assertion of immunity by an individual who is an officer or employee of the state or a political subdivision of the state;

(6) denies a motion for summary judgment that is based in whole or in part upon a claim against or defense by a member of the electronic or print media, acting in such capacity, or a person whose communication appears in or is published by the electronic or print media, arising under the free speech or free press clause of the First Amendment to the United States Constitution, or Article I, Section 8, of the Texas Constitution, or Chapter 73;

(7) grants or denies the special appearance of a defendant under Rule 120a, Texas Rules of Civil Procedure, except in a suit brought under the Family Code;

(8) grants or denies a plea to the jurisdiction by a governmental unit as that term is defined in Section 101.001;

(9) denies all or part of the relief sought by a motion under Section 74.351(b), except that an appeal may not be taken from an order granting an extension under Section 74.351;

(10) grants relief sought by a motion under Section 74.351(l);

(11) denies a motion to dismiss filed under Section 90.007;

(12) denies a motion to dismiss filed under Section 27.003;

(13) denies a motion for summary judgment filed by an electric utility regarding liability in a suit subject to Section 75.0022; ~~[☐]~~

(14) denies a motion filed by a municipality with a population of 500,000 or more in an action filed under Section 54.012(6) or 214.0012, Local Government Code; or

(15) overrules an objection filed under Section 148.003(d) or denies all or part of the relief sought by a motion under Section 148.003(f).

SECTION 2. Subchapter D, Chapter 74, Civil Practice and Remedies Code, is amended by adding Section 74.155 to read as follows:

Sec. 74.155. LIABILITY OF PHYSICIANS, HEALTH CARE PROVIDERS, AND FIRST RESPONDERS DURING PANDEMIC. (a) In this section:

(1) "Disaster declaration" means a declaration of a state of disaster or emergency by the president of the United States applicable to the entire state, a declaration of a state of disaster by the governor under Chapter 418, Government Code, for the entire state, and any amendment, modification, or extension of the declaration.

(2) "First responder" has the meaning assigned by Section 421.095, Government Code.

(3) "Pandemic disease" means an infectious disease that spreads to a significant portion of the population of the United States and that poses a substantial risk of a significant number of human fatalities, illnesses, or permanent long-term disabilities.

(b) Except in a case of reckless conduct or intentional, wilful, or wanton misconduct, a physician, health care provider, or first responder is not liable for an injury, including economic and noneconomic damages, or death arising from care, treatment, or failure to provide care or treatment relating to or impacted by a



pandemic disease or a disaster declaration related to a pandemic disease if the physician, health care provider, or first responder proves by a preponderance of the evidence that:

(1) a pandemic disease or disaster declaration related to a pandemic disease was a producing cause of the care, treatment, or failure to provide care or treatment that allegedly caused the injury or death; or

(2) the individual who suffered injury or death was diagnosed or reasonably suspected to be infected with a pandemic disease at the time of the care, treatment, or failure to provide care or treatment.

(c) A physician, health care provider, or first responder may not use the showing under Subsection (b)(2) as a defense to liability under Subsection (b) for negligent care, treatment, or failure to provide care or treatment if a claimant proves by a preponderance of the evidence that the respective diagnosis, treatment, or reasonable suspicion of infection with a pandemic disease at the time of the care, treatment, or failure to provide care or treatment was not a producing cause of the individual's injury or death.

(d) Care, treatment, or failure to provide care or treatment relating to or impacted by a pandemic disease or a disaster declaration related to a pandemic disease under Subsection (b) includes:

(1) screening, assessing, diagnosing, or treating an individual who is infected or suspected of being infected with a pandemic disease;

(2) prescribing, administering, or dispensing a drug or medicine for off-label or investigational use to treat an individual who is infected or suspected of being infected with a pandemic disease;

(3) diagnosing or treating an individual who is infected or suspected of being infected with a pandemic disease outside the normal area of the physician's or provider's specialty, if any;

(4) delaying or canceling nonurgent or elective medical, surgical, or dental procedures;

(5) delaying, canceling, or not accepting in-person appointments for office or clinical visits, diagnostic tests, scheduled treatment, physical or occupational therapy, or any other diagnosis or treatment of an illness or condition not related to a pandemic disease;

(6) using medical devices, equipment, or supplies outside of their normal use, including using or modifying such devices, equipment, or supplies for an unapproved use, to treat an individual who is infected or suspected of being infected with a pandemic disease;

(7) conducting tests on or providing treatment to an individual who is infected or suspected of being infected with a pandemic disease outside the premises of a health care facility;

(8) acts or omissions caused by a lack of personnel or staffing, facilities, medical devices, supplies, or other resources attributable to a pandemic disease that renders a physician, health care provider, or first responder unable to provide the same level or manner of care to any individual that otherwise would have been acquired in the absence of the disease; and

(9) acts or omissions arising from the use or nonuse of personal protective equipment.

(e) This section does not alter the scope of practice of a physician, health care provider, or first responder under the laws of this state.

(f) A defense under this section is in addition to any other defense, immunity, or limitation of liability provided by law. This section does not constitute a waiver of sovereign immunity of this state or governmental immunity of a political subdivision.

(g) A physician, health care provider, or first responder who intends to raise a defense under Subsection (b) must provide to a claimant specific facts that support an assertion under Subsection (b)(1) or (2) not later than the later of:

(1) the 60th day after the date the claimant serves an expert report on the physician, health care provider, or first responder under Section 74.351; or

(2) the 120th day after the date the physician, health care provider, or first responder files an original answer in the suit.

(h) This section applies only to a claim arising from care, treatment, or failure to provide care or treatment that occurred during a period beginning on the date that the president of the United States or the governor makes a disaster declaration related to a pandemic disease and ending on the date the declaration terminates.

SECTION 3. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 148 to read as follows:

#### CHAPTER 148. LIABILITY DURING PANDEMIC EMERGENCY

##### Sec. 148.001. DEFINITIONS. In this chapter:

(1) "Pandemic disease" has the meaning assigned by Section 74.155.

(2) "Pandemic emergency" means a state of disaster declared by the governor under Chapter 418, Government Code, in response to a pandemic disease.

Sec. 148.002. PRODUCTS LIABILITY ACTIONS RELATED TO PANDEMIC EMERGENCY. (a) This section applies only to the following products:

(1) clothing or equipment worn to minimize exposure to hazards of a pandemic disease that cause injury or illness;

(2) medical devices, equipment, and supplies used during a pandemic emergency or to treat individuals infected or suspected to be infected with a pandemic disease, including devices, equipment, and supplies used or modified for an unapproved use to treat or prevent the spread of the disease or used outside of their normal use to treat or prevent the spread of the disease;

(3) drugs, medicines, or vaccines used to treat or prevent the spread of a pandemic disease, including drugs, medicines, or vaccines prescribed, dispensed, or administered for an unapproved use in an attempt to treat or prevent the spread of the disease or used outside of their normal use in an attempt to treat or prevent the spread of the disease;

(4) tests to diagnose or determine immunity to a pandemic disease;

(5) commercial cleaning, sanitizing, or disinfecting supplies used to prevent the spread of a pandemic disease; or

(6) any component of a product described by this subsection.

(b) A person who designs, manufactures, sells, or donates a product described by Subsection (a) during a pandemic emergency is not liable for personal injury, death, or property damage caused by the product unless:

(1) the person:

(A) had actual knowledge of a defect in the product when the product left the person's control; or

(B) acted with actual malice in designing, manufacturing, selling, or donating the product; and

(2) the product presents an unreasonable risk of substantial harm to an individual using or exposed to the product.

(c) A person who designs, manufactures, labels, sells, or donates a product described by Subsection (a) during a pandemic emergency is not liable for personal injury, death, or property damage caused by a failure to warn or provide adequate instructions regarding the use of a product unless:

(1) the person acted with actual malice in failing to warn or provide adequate instructions regarding the use of the product; and

(2) the failure to warn or provide adequate instructions regarding the use of the product presents an unreasonable risk of substantial harm to an individual using or exposed to the product.

(d) A person is not liable for personal injury, death, or property damage caused by or resulting from the person's selection, distribution, or use of a product described by Subsection (a) during a pandemic emergency unless:

(1) the person:

(A) had actual knowledge of a defect in the product when the person selected, distributed, or used the product; or

(B) acted with actual malice in selecting, distributing, or using the product; and

(2) the product presents an unreasonable risk of substantial harm to an individual using or exposed to the product.

Sec. 148.003. LIABILITY FOR CAUSING EXPOSURE TO PANDEMIC DISEASE. (a) A person is not liable for injury or death caused by exposing an individual to a pandemic disease during a pandemic emergency unless the claimant establishes that:

(1) the person who exposed the individual:

(A) knowingly failed to warn the individual of or remediate a condition that the person knew was likely to result in the exposure of an individual to the disease, provided that the person:

(i) had control over the condition;

(ii) knew that the individual was more likely than not to come into contact with the condition; and

(iii) had a reasonable opportunity and ability to remediate the condition or warn the individual of the condition before the individual came into contact with the condition; or

(B) knowingly failed to implement or comply with government-promulgated standards, guidance, or protocols intended to lower the likelihood of exposure to the disease that were applicable to the person or the person's business, provided that:

(i) the person had a reasonable opportunity and ability to implement or comply with the standards, guidance, or protocols;

(ii) the person refused to implement or comply with or acted with flagrant disregard of the standards, guidance, or protocols; and

(iii) the government-promulgated standards, guidance, or protocols that the person failed to implement or comply with did not, on the date that the individual was exposed to the disease, conflict with government-promulgated standards, guidance, or protocols that the person implemented or complied with; and

(2) reliable scientific evidence shows that the failure to warn the individual of the condition, remediate the condition, or implement or comply with the government-promulgated standards, guidance, or protocols was the cause in fact of the individual contracting the disease.

(b) Except as provided by Subsection (c), not later than the 120th day after the date a defendant files an answer to a claim to which Subsection (a) applies, the claimant shall serve on the defendant:

(1) a report authored by at least one qualified expert that provides a factual and scientific basis for the assertion that the defendant's failure to act caused the individual to contract a pandemic disease; and

(2) a curriculum vitae for each expert whose opinion is included in the report.

(c) The deadline for serving the report and curriculum vitae required by Subsection (b) may be extended by written agreement of the affected parties.

(d) A defendant must file an objection to the sufficiency of the report and serve the objection on the claimant not later than 21 days after the later of:

(1) the date the report is served on the defendant; or

(2) the date the defendant's answer to the claim is filed.

(e) If a court determines that a report served under Subsection (b) does not represent an objective, good faith effort to provide a factual and scientific basis for the assertion that the defendant's failure to act caused the injured individual to contract a pandemic disease, the court may grant the claimant, on one occasion, a 30-day period to cure any deficiency in the report.

(f) If a sufficient report is not timely served under this section, the court, on the defendant's motion, shall enter an order:

(1) dismissing the claim with respect to the defendant, with prejudice; and

(2) awarding to the defendant reasonable attorney's fees and costs of court incurred by the defendant in the action.

(g) Nothing in this section shall be construed to mean that a single expert must address all causation issues with respect to all defendants.

(h) A report served under this section:

(1) is not admissible in evidence by any party;

(2) may not be used in a deposition, trial, or other proceeding; and

(3) may not be referred to by any party during the course of the action, except in a proceeding to determine if a report is sufficient or timely.

(i) After a claim to which Subsection (a) applies is filed, all claimants, collectively, may take not more than two depositions before the expert report is served as required by Subsection (b).

(j) For purposes of Subsection (a)(1)(B), if an order, rule, or authoritative declaration promulgated by the governor, the legislature, a state agency, or a local governmental entity with jurisdiction over the person conflicts with a different government-promulgated standard, guideline, or protocol, a person may not be considered to fail to implement or comply with the government-promulgated standard, guideline, or protocol if, at the time of the injured individual's exposure to the pandemic disease during a pandemic emergency, the person is making a good faith effort to substantially comply with at least one conflicting order, rule, or declaration.

Sec. 148.004. LIABILITY OF EDUCATIONAL INSTITUTIONS FOR CERTAIN ACTIONS DURING PANDEMIC EMERGENCY. (a) In this section, "educational institution" means an institution or program that facilitates learning or the acquisition of knowledge, skills, values, beliefs, or habits. The term includes:

(1) a public or private preschool, child-care facility, primary or secondary school, college, or university;

(2) an institution of higher education, as that term is defined by Section 61.003, Education Code; and

(3) a private or independent institution of higher education, as that term is defined by Section 61.003, Education Code.

(b) An educational institution is not liable for damages or equitable monetary relief arising from a cancellation or modification of a course, program, or activity of the institution if the cancellation or modification arose during a pandemic emergency and was caused, in whole or in part, by the emergency.

SECTION 4. (a) For purposes of Section 74.155, Civil Practice and Remedies Code, as added by this Act, the legislature finds that:

(1) the widespread effect of Coronavirus Disease 2019 ("COVID-19") in this state has resulted in a state of disaster as declared by the governor under Section 418.014, Government Code;

(2) the frequency and severity of such cases in this state have severely taxed the physicians and health care providers, including health care institutions, stressed the state's health care system, and created shortages of medical staff, therapeutics, hospital beds, testing equipment, and safety supplies;

(3) physicians and health care providers often have inadequate facilities to respond to the disaster;

(4) physicians and health care providers often have inadequate test kits and monitoring devices to properly assess all those presenting themselves for care or treatment;

(5) because of the number and severity of cases, many physicians and health care providers in this state have been forced to prioritize care and treatment;

(6) many physicians and health care providers have placed themselves, their loved ones, and their livelihoods at risk by trying to respond to the disaster;

(7) at the current time, there is no certainty as far as how long this crisis will last;

(8) a pandemic, including the COVID-19 pandemic, requires an enormous response from governments working in coordination with physicians and health care providers in the community;

(9) protecting physicians and health care providers from unnecessary liability supports their efforts during a pandemic, including the COVID-19 pandemic; and

(10) there is a strong public interest to be served by this Act.

(b) Because of the conditions stated in Subsection (a) of this section, the purpose of Section 74.155, Civil Practice and Remedies Code, as added by this Act, is to improve and modify the system by which health care liability claims are determined in order to:

(1) promote the public health, safety, and welfare of all citizens and ensure access to care and treatment during a pandemic by broadly protecting physicians and health care providers, including health care institutions, in this state from liability that may relate to the care or treatment of individuals associated with a pandemic, including COVID-19;

(2) provide for prompt and swift medical and health care responses to the citizens of this state suffering from COVID-19;

(3) recognize that many physicians and health care providers responding to these situations may not have the full benefits of the medical devices and facilities they would in non-disaster situations;

(4) encourage physicians and health care providers from other states to respond, if necessary, to the COVID-19 disaster in this state as declared by the president of the United States and by the governor; and

(5) ensure that the focus and resources of physicians and health care providers in responding to the COVID-19 disaster are being addressed.

(c) For purposes of Section 74.155 and Chapter 148, Civil Practice and Remedies Code, as added by this Act, the legislature finds that while some settled expectations regarding claims to which this Act applies may be impaired by this Act, the Act serves a compelling public interest in establishing certain procedures and standards for addressing potential claims against individuals and entities faced with an unprecedented public health emergency that has had severe and adverse impacts on both the health and safety of individuals and the ordinary functioning of governmental entities, the judicial system, the health care delivery system, educational and religious institutions, businesses, nonprofit entities, and others whose daily lives have been upended by the emergency.

SECTION 5. (a) Section 74.155 and Chapter 148, Civil Practice and Remedies Code, as added by this Act, apply only to an action commenced on or after March 13, 2020, for which a judgment has not become final before the effective date of this Act. An action commenced before March 13, 2020, or an action for which a judgment has become final before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) In an action commenced before the effective date of this Act and to which Section 74.155, Civil Practice and Remedies Code, as added by this Act, applies, a physician, health care provider, or first responder who intends to raise a defense under Subsection (b) of that section must provide to the claimant specific facts required under Subsection (g) of that section not later than the later of:

(1) the 60th day after the effective date of this Act;

(2) the 120th day after the date the physician, health care provider, or first responder files an original answer in the suit; or

(3) the 60th day after the date the claimant serves an expert report on the physician, health care provider, or first responder under Section 74.351, Civil Practice and Remedies Code.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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

Amend **CSSB 6** (house committee printing) as follows:

(1) On page 6, between lines 24 and 25, insert the following:

(i) This section does not create a civil cause of action.

(2) On page 13, between lines 13 and 14, insert the following:

Sec. 148.005. NO CIVIL CAUSE OF ACTION. This chapter does not create a civil cause of action.

The amendments were read.

Senator Hancock moved to concur in the House amendments to **SB 6**.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Hall.

### **SENATE BILL 623 WITH HOUSE AMENDMENT**

Senator Blanco called **SB 623** from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

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

Amend **SB 623** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. This Act may be cited as the Vanessa Guillén Act.

The amendment was read.

Senator Blanco moved to concur in the House amendment to **SB 623**.

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

**(President in Chair)**

### **CONFERENCE COMMITTEE ON HOUSE BILL 1869**

Senator Bettencourt 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 1869** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1869** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Bettencourt, Chair; Hall, Kolkhorst, Lucio, and Springer.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2030**

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2030** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2030** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Powell, Birdwell, Bettencourt, and Perry.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3720**

Senator Kolkhorst 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 3720** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3720** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Kolkhorst, Chair; Buckingham, Powell, Perry, and Bettencourt.

#### **MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 28, 2021 - 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 PASSED THE FOLLOWING MEASURES:



**SB 348** Kolkhorst Sponsor: Jetton  
Relating to parental access to public school virtual instruction and instructional materials for virtual and remote learning.

**SB 369** Kolkhorst Sponsor: Allison  
Relating to the requirement to submit a financial aid application as a condition of high school graduation for public school students.

**SB 598** Kolkhorst Sponsor: Jetton  
Relating to auditable voting systems.

**SB 617** Kolkhorst Sponsor: Wilson  
Relating to the regulation of certain direct sales of food to consumers and a limitation on the fee amount for certain permits.

**SB 801** Kolkhorst Sponsor: Leman  
Relating to the development of an agriculture education program for public elementary schools.

**SB 1575** Kolkhorst Sponsor: Oliverson  
Relating to assessment and oversight of children placed by the Department of Family and Protective Services in a qualified residential treatment program and a study regarding residential treatment center placements.

**SB 1895** Huffman Sponsor: Klick  
Relating to a Texas Medical Board complaint for a violation described by Section 22.011(b)(12), Penal Code.

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

**HB 72**

**HB 79** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 721** (147 Yeas, 0 Nays, 1 Present, not voting)

**HB 1154** (148 Yeas, 0 Nays, 1 Present, not voting)

**HB 2168** (104 Yeas, 44 Nays, 1 Present, not voting)

**HB 2497** (133 Yeas, 13 Nays, 1 Present, not voting)

**HB 2519** (133 Yeas, 11 Nays, 1 Present, not voting)

**HB 2667** (129 Yeas, 18 Nays, 1 Present, not voting)

**HB 2706** (147 Yeas, 0 Nays, 1 Present, not voting)

**HB 2911** (117 Yeas, 30 Nays, 1 Present, not voting)

**HB 3597** (139 Yeas, 9 Nays, 1 Present, not voting)

**HB 3938** (148 Yeas, 0 Nays, 1 Present, not voting)

**HB 4103** (103 Yeas, 45 Nays, 1 Present, not voting)

**HB 4110** (118 Yeas, 27 Nays, 1 Present, not voting)

**HB 4344** (147 Yeas, 0 Nays, 1 Present, not voting)

**HB 4472** (103 Yeas, 32 Nays, 1 Present, not voting)

**HB 4555** (147 Yeas, 1 Nays, 1 Present, not voting)

**HB 4590** (103 Yeas, 43 Nays, 1 Present, not voting)

**HB 4604**

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 3**

House Conferees: Burrows - Chair/Bonnen/Lucio III/Paddie/Tinderholt

**HB 1493**

House Conferees: Herrero - Chair/Leach/Martinez Fischer/Rodriguez/Walle

**HB 1929**

House Conferees: Wilson - Chair/Bucy/Cyrier/Darby/Rodriguez

**HB 1987**

House Conferees: Vasut - Chair/Burrows/Geren/Goldman/Paddie

**HB 2462**

House Conferees: Neave - Chair/Bowers/Button/Campos/Ramos

**HB 3578**

House Conferees: Guerra - Chair/Meyer/Noble/Sanford/Thierry

**HB 3752**

House Conferees: Frank - Chair/Buckley/Klick/Oliverson/Raymond

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

**SB 14**

House Conferees: King, Phil - Chair/Bowers/Lucio III/Metcalf/Walle

**SB 185**

House Conferees: White - Chair/Cook/Frank/Neave/Wu

**SB 1267**

House Conferees: Lozano - Chair/Guillen/Krause/Raymond/Stephenson

**SB 1281**

House Conferees: King, Phil - Chair/Darby/Harless/Howard/Zwiener

**SB 2185**

House Conferees: Canales - Chair/Bowers/Harris/King, Tracy O./Larson

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 28, 2021 - 6

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

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

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

**HB 1252** (113 Yeas, 29 Nays, 1 Present, not voting)

**HB 1315** (107 Yeas, 32 Nays, 1 Present, not voting)

**HB 1410** (126 Yeas, 17 Nays, 1 Present, not voting)

**HB 1505** (128 Yeas, 17 Nays, 1 Present, not voting)

**HB 1558** (100 Yeas, 44 Nays, 1 Present, not voting)

**HB 2073** (146 Yeas, 0 Nays, 1 Present, not voting)

**HB 2287** (95 Yeas, 51 Nays, 1 Present, not voting)

**HB 2357** (147 Yeas, 0 Nays, 1 Present, not voting)

**HB 2681** (147 Yeas, 0 Nays, 1 Present, not voting)

**HB 3157** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 3271** (101 Yeas, 44 Nays, 1 Present, not voting)

**HB 3665** (124 Yeas, 22 Nays, 1 Present, not voting)

**HB 3712** (147 Yeas, 0 Nays, 1 Present, not voting)

**HB 4368** (126 Yeas, 21 Nays, 1 Present, not voting)

**HB 4611** (101 Yeas, 42 Nays, 1 Present, not voting)

**HB 4638** (89 Yeas, 54 Nays, 1 Present, not voting)

**HB 4645** (98 Yeas, 41 Nays, 1 Present, not voting)

**HB 4651** (85 Yeas, 60 Nays, 1 Present, not voting)

**HCR 51** (147 Yeas, 0 Nays, 1 Present, not voting)

**HCR 62** (146 Yeas, 0 Nays, 1 Present, not voting)

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

**HB 572**

House Conferees: Dutton - Chair/Bell, Keith/González, Mary/Huberty/King, Ken

**HB 671**

House Conferees: Martinez - Chair/Canales/Guillen/Hull/Sanford

**HB 1468**

House Conferees: Bell, Keith - Chair/Dutton/Huberty/King, Ken/VanDeaver

**HB 3774**

House Conferees: Leach - Chair/Johnson, Julie/Moody/Schofield/Smith

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE RESOLUTION 516**

Senator Nichols offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 87th Legislature, Regular Session, 2021, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 5 (the expansion of broadband services to certain areas) to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and (4) are suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill in proposed SECTION 5 of the bill, by adding Sections 490I.0105(a)(1)(B) and (2)(B), Government Code, to read as follows:

(a) The broadband development office shall create, update annually, and publish on the comptroller's Internet website a map classifying each designated area in this state as:

(1) an eligible area, if:

(A) fewer than 80 percent of the addresses in the designated area have access to broadband service; and

(B) the federal government has not awarded funding under a competitive process to support the deployment of broadband service to addresses in the designated area; or

(2) an ineligible area, if:

(A) 80 percent or more of the addresses in the designated area have access to broadband service; or

(B) the federal government has awarded funding under a competitive process to support the deployment of broadband service to addresses in the designated area.

Explanation: This change is necessary to ensure that an area is not classified as an area for which state financial assistance may be provided for the purpose of expanding access to and adoption of broadband service under Chapter 490I, Government Code, as added by the bill, if the federal government has awarded funding for the purposes of supporting the deployment of broadband service in the area.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill in proposed SECTION 5 of the bill, by adding Section 490I.0105(m), Government Code, to read as follows:

(m) A designated area that is classified as an ineligible area on account of the existence of federal funding to support broadband service deployment in the area may be reclassified as an eligible area if:

(1) funding from the federal government is forfeited or the recipient of the funding is disqualified from receiving the funding; and

(2) the designated area otherwise meets the qualifications of an eligible area.

Explanation: This change is necessary to ensure that an area classified as ineligible for state financial assistance provided for the purpose of expanding access to and adoption of broadband service under Chapter 490I, Government Code, as added by the bill, on account of the availability of federal funding for supporting the deployment of broadband service in the area may be reclassified as eligible to receive the assistance if the federal government funding is no longer available.

**SR 516** was read and was adopted by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 5 ADOPTED**

Senator Nichols called from the President's table the Conference Committee Report on **HB 5**. The Conference Committee Report was filed with the Senate on Wednesday, May 26, 2021.

On motion of Senator Nichols, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 13 ADOPTED**

Senator Birdwell called from the President's table the Conference Committee Report on **SB 13**. The Conference Committee Report was filed with the Senate on Monday, May 24, 2021.

On motion of Senator Birdwell, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 3.

Yeas: Alvarado, Bettencourt, Birdwell, Blanco, Buckingham, Campbell, Creighton, Hall, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Paxton, Perry, Powell, Schwertner, Seliger, Springer, Taylor, West, Whitmire, Zaffirini.

Nays: Eckhardt, Gutierrez, Johnson.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3973**

Senator Nichols called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3973** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3973** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Nichols, Chair; Nelson, Huffman, Kolkhorst, and Taylor.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 525**

Senator Hall 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 525** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 525** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Hall, Chair; Hughes, Perry, Birdwell, and Lucio.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1758**

Senator Birdwell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1758** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1758** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Birdwell, Chair; Huffman, Creighton, Hughes, and Johnson.

#### **MOTION TO RECEDE FROM SENATE AMENDMENTS TO HOUSE BILL 3979**

Senator Hughes moved to recede from the amendments adopted by the Senate to **HB 3979** at this time:

**HB 3979**, Relating to the social studies curriculum in public schools.

#### **POINT OF ORDER**

Senator West raised a point of order that Rule 7.25 requires that no vote shall be taken upon the passage of any bill on its third reading after the 135th calendar day of a regular session, nor for any purpose within the last 24 hours of the session unless it be to correct an error therein.

Question: Shall the Senate recede from amendments to **HB 3979**?

**AT EASE**

The President at 7:43 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

**IN LEGISLATIVE SESSION**

The President at 8:02 p.m. called the Senate to order as In Legislative Session.

Question: Shall the Senate recede from amendments to **HB 3979**?

**POINT OF ORDER RULING**

The President stated that the point of order was respectfully overruled.

Senator Hughes again moved to recede from the amendments adopted by the Senate to **HB 3979** at this time.

The motion prevailed by the following vote: Yeas 18, Nays 13.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Lucio, Menéndez, Miles, Powell, West, Whitmire, Zaffirini.

**REMARKS ORDERED PRINTED**

On motion of Senator Alvarado and by unanimous consent, the remarks by Senators West, Hughes, Alvarado, and the President regarding **HB 3979** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**President:** Senator Hughes, you're recognized for a motion on House Bill 3979.

**Senator Hughes:** Thank you, Mr. President. I move that the Senate recede from the amendments adopted by the Senate to House Bill 3979, relating to the social studies curriculum in public schools, and declare the bill, that bill to have passed the Senate in the same form as it was received by the Senate from the House, and the House be notified of this action. That is my motion.

**President:** Any objection? Senator West, for what purpose?

**Senator West:** I need to understand the motion first of all. Well, I, parliamentary—

**President:** Senator Hughes.

**Senator West:** —yeah. May I ask the—

**President:** Yes, you do.

**Senator Hughes:** I'll yield.

**Senator West:** Would you go back through what's going on now?

**Senator Hughes:** Of course. And thank you, Senator, I was being careful to make sure I got the words right because it's a specific motion. So, my motion is that the Senate recede from the amendments adopted by the Senate to House Bill 3979, relating to the social studies curriculum in public schools, and declare that bill to have

passed the Senate in the same form as it was received by the Senate from the House and the House be notified of this action. I think the general term for this is a motion to recede.

**Senator West:** Okay, what's the practical effect of this particular motion?

**Senator Hughes:** Thank you, Senator, so the House—

**Senator West:** Mr. President, I can't, could we quiet down a little bit?

**President:** Members, could we have order?

**Senator West:** Okay—

**President:** Thank you.

**Senator West:** —so, what's the practical—

**President:** You have some people talking right behind you if you cannot hear.

**Senator Hughes:** Thank you, Senator West. So, here's the practical effect of the bill. House Bill 3979 came over to the Senate. We adopted a number of amendments and sent it back to the House. If the Senate adopts the motion I'm making, we will pass House Bill 3979 the way it came from the House without any of those Senate amendments. That's the effect of this motion.

**Senator West:** Let me ask this. What's the status of House Bill 3979 in the House right now?

**Senator Hughes:** House Bill 3979 has been received by the House and it, we might consult the Parliamentarian for more detail but that's my understanding.

**Senator West:** Okay. Was there debate on House b— on the, I guess there was a report, CCR on this, is that correct? On House Bill 3979, or do I have the bills mixed up?

**Senator Hughes:** I'm sorry, a CCR?

**Senator West:** Is this the critical race theory bill?

**Senator Hughes:** Oh, yes, Sir. I'm sorry, this is the, yes, Sir, this is the critical race theory bill. Yes, Sir, that's what this is.

**Senator West:** Was extensive debate on that over in the Senate, over in the House today? Correct?

**Senator Hughes:** There was. Before they sent it to us, yes, Sir.

**Senator West:** Okay, so it passed?

**Senator Hughes:** Passed the House, came to us, we put some amendments on, sent it back to the House, and that's where we are procedurally, and by this motion I'm asking the Senate to remove those amendments we added and to pass the bill as it came to us from the House.

**Senator West:** Okay. Let's go through the amendments that were added.

**Senator Hughes:** Sorry?

**Senator West:** What amendments were added?



**Senator Hughes:** Well, Senator, you may recall that I offered an amendment. We had a discussion about it, it was a floor substitute and so it replaced the language sent to us by the House. And I can go through the side-by-side description for you. Most of the elements are the same in the House and the Senate version. Now, can I tell you the main difference, or you tell me what you need? I'll do my best.

**Senator West:** Oh, I want to know everything.

**Senator Hughes:** Alright. So, do you want to know about the amendments, what we're asking the House to pass, what the Senate to pass tonight?

**Senator West:** Right.

**Senator Hughes:** I thought you might ask, so I've got it right here.

**Senator West:** You know, you know—

**Senator Hughes:** Yes, Sir.

**Senator West:** —what I was going to ask.

**Senator Hughes:** Yes, Sir. So, just like that floor substitute that I, okay, just like the floor substitute that I presented and we debated fairly thoroughly and adopted, the House engrossed version has the following elements. So, what I'm about to tell you is in the House bill and in the amendment we adopted. Would that be helpful to go through it like that? Do you mind if I do it that way?

**Senator West:** That's fine.

**Senator Hughes:** Okay. Thank you. So, both include guidelines for discussing current events as well as the limitations on obtaining course credit for political activities. They both have protections that, this is important, they both, the version the House passed and our amendment, have protections for students' freedom of speech, so they're not limited on what they can discuss, also prohibition on teachers being compelled to discuss certain events.

**Senator West:** Alright—

**Senator Hughes:** The very thing you and I discussed—

**Senator West:** —alright—

**Senator Hughes:** —it's in both bills.

**Senator West:** —hold your point again.

**Senator Hughes:** Sir?

**Senator West:** Have you, hold your point on that.

**Senator Hughes:** Okay.

**Senator West:** Have we been able to discern that if a teacher has a contract and an obligation under the contract to teach current events, whether or not she can be, quote, unquote, compelled to do so?

**Senator Hughes:** Well, Senator, the language—

**Senator West:** Based, hold on for a second—

**Senator Hughes:** —okay.

**Senator West:** —based on the contractual relationship she has with the school district.

**Senator Hughes:** As I read this bill, consistent with the one we passed, it says a teacher may not be compelled. So, this would still control.

**Senator West:** So, again, and I don't want to spend three or four hours on this. I will if we have to. Okay, what does that mean as relates to if a teacher is in a contractual relationship with a school district, would the language in this bill trump the contractual obligation that the teacher has to teach—

**Senator Hughes:** If—

**Senator West:** —current events?

**Senator Hughes:** —so, Senator, if there were such a conflict, this bill would control. I don't believe there would be, but if there were, the bill, the law would control, yes, Sir.

**Senator West:** So, then what you're saying then that a school district under this particular bill cannot put in any social studies teacher's contract language that she or he must teach current events.

**Senator Hughes:** No, Sir, that's not right. The bill says a teacher may not be compelled to discuss a particular current event.

**Senator West:** Well, okay, but that's one and I don't have all of this in front of me. I apologize.

**Senator Hughes:** Oh, sure. No, that's okay. I'm just—

**Senator West:** Again, wishing that I was coming up, I'm getting it, though. So, again, a teacher may not be compelled. They have a contractual relationship and the school wants them to talk about a particular current event—

**Senator Hughes:** Yes, Sir.

**Senator West:** —then your language trumps the teacher's contract.

**Senator Hughes:** Only if it's adopted by the Legislature and signed by the Governor, yes—

**Senator West:** Of course.

**Senator Hughes:** —it would trump that, yes, Sir. It would.

**Senator West:** It, it's, that's a novelty, isn't it? Have we ever done anything like this before where we have, I thought we were a city, a state that basically was for free enterprise and allowed parties to contract with one another without the state getting involved in it.

**Senator Hughes:** Well, Senator—

**Senator West:** Why are we getting involved in this one?

**Senator Hughes:** Well, Senator, the school district is a political subdivision of the state—

**Senator West:** That's right.

**Senator Hughes:** –and so, we as the state are saying this, we're making this change. We're a party–

**Senator West:** That's fine.

**Senator Hughes:** –to that contract.

**Senator West:** That's fine, if it passes. But do you know of any other instances, other than, quote, unquote, this critical race theory stuff that your guys are talking about, where we have put language in a law that, as it relates to teachers, that, to restrict a school district's right to have certain subject matter taught?

**Senator Hughes:** Well, Senator, I want to be clear. This language protects teachers, this protects the teachers.

**Senator West:** Oh, that's not the question I asked, though.

**Senator Hughes:** Okay, to answer your question, there are a number of areas where we limit parties' ability to enter into contracts. For example, you and I have supported legislation that says if the Legislature grants certain rights to a party, an overwaning party with more power cannot make them give away those rights. A contract giving up those rights is void in Texas. And I know you know that concept. And that's the idea here. No, I don't believe there is a conflict but if there were, this law would control.

**Senator West:** Let me ask the question again. Do you know of any other instance where we have come in as a Legislature, as the state, and basically got involved in telling of the school district that they cannot require a teacher to teach a particular subject? Or do you know of any other time that we've ever done that?

**Senator Hughes:** Well, Senator, this doesn't say they can't teach a particular subject.

**Senator West:** Okay, that's right, I said subject. I said subject.

**Senator Hughes:** I'm not aware of that.

**Senator West:** Hold–

**Senator Hughes:** You may know, I'm not aware.

**Senator West:** You're not aware of that are you?

**Senator Hughes:** I don't know, you may know. I'm not aware.

**Senator West:** So, you're not aware then?

**Senator Hughes:** Oh, no, Sir.

**Senator West:** Do you know of any other instance where we've come in and told, basically said that if a school district wants a teacher to teach a certain current event–

**Senator Hughes:** I've never heard of a contract specifying a teacher must teach a particular event. That will be tough because the current events would come up after the contract was entered into. Maybe–

**Senator West:** Do you know–

**Senator Hughes:** –I'm–

**Senator West:** –do you know–

**Senator Hughes:** –misunderstood–

**Senator West:** –you know that–

**Senator Hughes:** –the question.

**Senator West:** –answer, okay. Let's go back to the language then in your bill. Okay? A school district cannot compel a teacher to do what?

**Senator Hughes:** So, and this is the identical language that we discussed on the, on the House amendment, on the amendment to the House bill, it says, and I'm on page 4, line 11, and I'm going to see if I have an extra copy. I just printed this one off myself. It says a teacher may not be compelled to discuss a particular current event or widely debated and currently controversial issue of public policy or social affairs.

**Senator West:** So, then if a school district wanted the, the teacher to talk about a particular current event, let's just say that they have been hired to teach social studies.

**Senator Hughes:** Yes, Sir.

**Senator West:** And the principal comes over to the teacher and said I need you to teach this current event, they can't be compelled to do that. Right?

**Senator Hughes:** Under this bill, they would have that protection. That's correct. And, of course, also under this bill the TEKS are going to be redeveloped and so those TEKS to which our teachers are asked to teach will be consistent with what's in this bill, if the bill passes, signed by the Governor.

**Senator West:** Mr. President, I'd like to raise a point of order under Rule 7–

**President:** State your point of order.

**Senator West:** –under Rule 7.25 no vote shall be taken upon the passage of any bill on its third reading after the 135th calendar day of the regular session, nor for any purpose within the last 24 hours of the session, unless it is to correct an error therein. It shall require a vote of four-fifths Members present to suspend this rule. Seven–

**President:** Please bring your–

**Senator West:** –point two five.

**President:** –point of order forward, thank you. Members, we are going to stand At Ease for 10 minutes, until 8:55. Sorry, it's, yeah, 7:55. We're standing At Ease 10 minutes to 7:55. Yeah, feels later.

(Pause)

**President:** Senate will come back to order. Members, the point of order is respectively overruled. Yes, Sir.

**Senator West:** I'm going to ask for reconsideration based on the following argument. There's no evidence in the Journal. In our Journal it basically says that this Senate bill, this House Bill 3979 as amended was passed to third reading, third reading, by the following vote, 18 to 13. I know that the Senate asked for a conference committee, but it's my understanding and we don't have it in front of us, one was not granted. And given the fact that the last action in this body that was, my understanding that the House did not ask for a conference committee and so the last action that was passed in

this body was on third reading. And so, we're still back at third reading at this point and my point of order still insists that it's in violation of 7.25. May I come down front to show you?

**President:** Senator West, with all due respect, the point of order you raised has been ruled upon.

**Senator West:** So, may I go back to asking questions?

**President:** Yes, you may.

**Senator West:** Thank you. We were talking about teachers being compelled.

**Senator Hughes:** Yes, Sir.

**Senator West:** And what you're saying is that this particular law trumps any contractual obligation that a teacher has to a school district. Correct?

**Senator Hughes:** This law would trump any hypothetical conflict between that contract and the law. I don't believe one exists, but if it did, the law would control. I believe that's right.

**Senator West:** So, if it's not hypothetical it does not trump it?

**Senator Hughes:** Is that a hypothetical?

**Senator West:** No. It's a question.

**Senator Hughes:** No conflict exists, if it did exist, the law would trump.

**Senator West:** Alright, so what we're telling Texas tonight that as it relates to a teacher's right to refuse to teach what a principal may very well ask them to teach concerning a current subject, current event, that they can say no and not be held in breach of contract. Correct?

**Senator Hughes:** Under the terms of this bill if it's a current event that comes under this definition, yes, you're correct.

**Senator West:** And you don't know of any other instance where we've ever done that. Correct?

**Senator Hughes:** I know—

**Senator West:** So, we're just doing that on race theory.

**Senator Hughes:** —I know of many—

**Senator West:** Critical race theory.

**Senator Hughes:** —I know of many instances where the Legislature limits what parties can contract to and abrogates contracts.

**Senator West:** No, that's not the question. I'm, all due respect, I'm talking about teachers' contracts. Do you know of any other instance where we have said a teacher, subject to a contract, would not have to teach a particular issue if required to do so by their educational leader on the campus?

**Senator Hughes:** Senator, teachers have a number of protections against being compelled to do acts by their, by their employers. I'm not sure I exactly understand what your question is.

**Senator West:** Okay, well, I'm going to slow it down so you can understand—

**Senator Hughes:** Oh, thank you. I'm going to do—

**Senator West:** —alright?

**Senator Hughes:** —my best.

**Senator West:** What I'm asking you, and I've been doing education policy along with Senator Taylor and others, I've never had an instance where a teacher who is, who has a contract with a school district can refuse to teach a particular subject or content of a particular subject. Do you know of any instance where that's occurred, other than in this particular bill?

**Senator Hughes:** Senator, we passed a bill a couple of days ago that said a teacher cannot be compelled to teach their classes virtually. No matter what the contract says, what the school district wants, Senator, I'm answering your question.

**Senator West:** Go, go—

**Senator Hughes:** It said a teacher cannot be compelled, they can't be compelled to do virtual and in-class at the same time, they can't be compelled to do virtual. That's, we passed that just a couple days ago. So, an example, one example, and for, we give our teachers rights against what the school district may ask of them.

**Senator West:** So, that's—

**Senator Hughes:** That's one example—

**Senator West:** —with all due respect—

**Senator Hughes:** —that comes to mind—

**Senator West:** —with all due respect—

**Senator Hughes:** —because it was a couple of days ago.

**Senator West:** —out of all due respect, objection. Not relevant. I'm talking about subject matter not as it, not teaching formats. I'm talking about subject matter. You're talking about virtual or in-person right now.

**Senator Hughes:** That's right.

**Senator West:** Okay. I'm talking about subject matter.

**Senator Hughes:** We talked—

**Senator West:** Again, let me ask the question again. And if you don't want to answer it just say so and we'll move on, because I know everyone wants to get out of here. But, so do you know of any instance where a teacher who has a contract with a school district has been able to, frankly, tell the school district, no, I'm not going to teach that?

**Senator Hughes:** You mean a particular subject or a subject matter or a particular—

**Senator West:** Subject matter.

**Senator Hughes:** —or particular current event?

**Senator West:** Subject matter, current event.

**Senator Hughes:** Because you know teachers are hired for one topic, and they're not normally expected to teach others unless they agree to it.

**Senator West:** Subject matter.

**Senator Hughes:** Now this, this is not about subject matter, but I think I answered this before, I don't—

**Senator West:** Current event.

**Senator Hughes:** —I don't know.

**Senator West:** If a principal comes into the classroom and basically says, ooh, I want you to teach these kids about this particular current event. The teacher now has the ability, if this law becomes signed by the Governor, to say, no, I don't want to teach it. Correct?

**Senator Hughes:** Senator, that's correct. That's what it says.

**Senator West:** And this is the first time that you or anyone in this body knows where that has occurred. And it's unfortunate that it's occurring in this instance where there's a complaint nationally about critical race theory. So, if a principal comes in and says that I need you to talk about Black Lives Matter and the teacher refuses to do that, she can point to this particular law and say I can't be compelled to talk about Black laws, Black Lives Matter. Correct?

**Senator Hughes:** Senator, I don't know if that would be a particular current event.

**Senator West:** Okay, well let me, alright, okay, good.

**Senator Hughes:** And I'm just trying to understand—

**Senator West:** Okay, let's, alright, I'm, a hypothetical I'm going to give you is based on if there is a current event about Black Lives Matter and the principal comes in or the supervisor comes in to say, I need you to teach about what's going on, have a discussion about what's going on, the teacher cannot be compelled to do that. Correct?

**Senator Hughes:** If the teacher says, I'm not comfortable teaching about that particular event, they can invoke this and they get that protection, yes, Sir. That's correct.

**Senator West:** Without breaching their contract.

**Senator Hughes:** Yes, Sir. That's correct.

**Senator West:** And do you know of any other instance, Sir, other than as we relate, as it relates to critical race theory that we're discussing now, that's ever happened in the State of Texas?

**Senator Hughes:** Well, I want to be clear. This particular current event, that's not limited to critical race theory. Now that, that's, that can be applied to any particular current event that follows this procedure, so the provision of the bill we're discussing is not limited to critical race theory.

**Senator West:** Including critical race theory. Right?

**Senator Hughes:** Well, it would come under the heading of any current—

**Senator West:** So, if a teacher—

**Senator Hughes:** —particular current event.

**Senator West:** —wanted to, sure, sure. And if the principal comes into the classroom and says, I want you to teach about, there's been some stuff about 1619 out there. You know what I'm talking about, don't you?

**Senator Hughes:** I've read a little bit of the 1619 Project, yes, Sir.

**Senator West:** Right. If a principal comes in and says I want you to teach and have a discussion about the 1619 Project, and the teacher says, no, I don't want to do that, then your particular law, this particular version in this law, would not compel her to do that. Right?

**Senator Hughes:** That's correct. That's right.

**Senator West:** She would not be in breach of contract.

**Senator Hughes:** You got it. I believe that's how I read it. That's the intent.

**Senator West:** How did this language come about?

**Senator Hughes:** I beg your pardon?

**Senator West:** How did this language "compel" come about?

**Senator Hughes:** Well, this bill came over from the House. This was, this was passed by the House and they sent it over here to us, and so the motion I'm, before us would take us back to the bill House passed.

**Senator West:** The House passed a bill that said "compel." Correct?

**Senator Hughes:** I beg your pardon?

**Senator West:** This language "compel" is still in the House bill.

**Senator Hughes:** Yes, Sir. So, when we had that floor amendment, it was patterned after what was already in the House bill.

**Senator West:** What other, what other amendments did we put on here—

**Senator Hughes:** So, a couple more differences—

**Senator West:** —that we are striking?

**Senator Hughes:** I'm sorry, I'll wait.

**Senator West:** I'm sorry.

**Senator Hughes:** That's okay.

**Senator West:** Go ahead, I, what other amendments did we put on here?

**Senator Hughes:** So, I was, I was talking about the differences between the bill that came over from the House and the changes we made. The House version differs from our floor substitute in a couple of ways. It has a much longer list of required readings, and I've got the list if we'd like to go over it. That's in the House bill that we're, that we're asking that the Senate to approve.

**Senator West:** Let's go over it.



**Senator Hughes:** Okay, very well. I've got it, hang on I've got it here, just a sec. That's one different, before I go to that, let me give you all the highspots so we don't miss any. A far more li— a laundry list of comprehensive su— recommended readings, also the prohibitions on earning course credit for political activism applies to social studies and civics. Also, one, and, Senator, one major difference between the House bill and our bill, the floor amendment put on by the Senate and adopted, it has this civics training program where the State Board of Education and TEA develop civics training program for our teachers. That was in the amendment that we adopted; it is not in the House engrossed bill. I'm just trying to be clear in what's, and what's out. And then, you know, some of the concepts in the TEKS are different. But one of the main differences is that reading list, and I have, I've got it here, and I can share that information with you if you'd like, and it's in the House bill, you probably have a copy of it now. And so, the, if we pass the motion I'm proposing before this house, we would add a long list of required reading and I suspect, Senator, these are all things that would have been in the list under the bill we passed, because you may remember our floor amendment we talked about those concepts and we asked the state board and TEA to flesh them out. So, the House bill just has a lot more specific detail about the bill, the reading list that would be required. Now, it's not limited to this list, but these books and these readings would have to be as part of the curriculum adopted by TEA and State Board of Education. And I hope that answers your question.

**Senator West:** It answers my question at this point. It really doesn't answer my question and I know you're the messenger.

**Senator Hughes:** I'm going to do my best.

**Senator West:** Well, you're the messenger and so I'm, there may be others that have questions. I might have a couple myself after I hear some of the questions that may very well be asked of you. But I do want to make certain I get an opportunity to speak on this before we adopt the motion. So, parliamentary inquiry, Mr. President, is it the time now to speak on this parti— the adoption of this particular motion? Or is this just on the amendment? Where are we right now in terms of—

**President:** We are on adoption of the motion—

**Senator West:** —the motion—

**President:** —to recede.

**Senator West:** —to recede.

**President:** To recede, yes, Sir.

**Senator West:** Okay, then after we finish the motion to recede, then the bill is back up before us, or—

**President:** No, after the motion to recede, the bill goes back to the House without Senate amendments.

**Senator West:** Okay, so, Members, you heard me speak, you heard me speak about this bill the other night.

**President:** Yes, Sir.

**Senator West:** And so, from that vantage point you know what my position is on this, and I would ask you to kind of look yourself and see whether this is really necessary or what this is all about. We keep continuing to talk about a United State, States but we keep on doing things like this that frankly divide us. Even though we talk about this particular bill and the spirit of it is to make certain that we don't judge a person by the color of their skin, by the content of their character—

**Senator Hughes:** Yes, Sir.

**Senator West:** —and then we take the responsibility, we give it to the State Board of Education and TEA in order to implement it, but we don't give them any directions in terms of trying to solve the problems that we have in this country. Talk about don't teach this, don't teach that, but we don't ask them and give them the resources to solve the race problems in this country. And then you need to think about this, it's our generation that should be trying to fix this problem as opposed to kicking it down to the next generation and asking them to do it. And so, I would ask you to vote no.

**President:** Thank you, Senator West. Senator Alvarado.

**Senator Alvarado:** Thank you, Mr. President. Parliamentary inquiry.

**President:** For what purpose?

**Senator Alvarado:** Parliamentary inquiry.

**President:** State your inquiry.

**Senator Alvarado:** Are, do you know if the House moved to not concur?

**President:** The only thing we know is they returned the bill for further consideration.

**Senator Alvarado:** Parliamentary inquiry.

**President:** State your inquiry.

**Senator Alvarado:** Did the House request a conference committee?

**President:** They have not.

**Senator Alvarado:** Parliamentary inquiry.

**President:** State your inquiry.

**Senator Alvarado:** Where we are right now is this considered third reading?

**President:** No, it is not.

**Senator Alvarado:** Parliamentary inquiry.

**President:** State your inquiry.

**Senator Alvarado:** What does it, can we look to see what it says in the Journal? What does the Journal say?

**President:** Not really sure what you're asking.

**Senator Alvarado:** Whether, I believe we are in third reading.

**President:** I'm sorry. I've answered that several times. We're not in third reading.

**Senator Alvarado:** I'd like to request that the exchange between Senator Royce and Senator Hughes be reduced to writing and placed in the Journal and that the exchange between myself and you be placed in the Journal as well.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 28, 2021 - 7

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 757** (146 Yeas, 0 Nays, 1 Present, not voting)
- HB 1027** (131 Yeas, 16 Nays, 2 Present, not voting)
- HB 1480** (136 Yeas, 9 Nays, 1 Present, not voting)
- HB 1520** (130 Yeas, 12 Nays, 1 Present, not voting)
- HB 1535** (119 Yeas, 25 Nays, 1 Present, not voting)
- HB 1863** (147 Yeas, 0 Nays, 1 Present, not voting)
- HB 2064** (147 Yeas, 0 Nays, 1 Present, not voting)
- HB 2205** (132 Yeas, 14 Nays, 2 Present, not voting)
- HB 2256** (113 Yeas, 32 Nays, 1 Present, not voting)
- HB 2857** (135 Yeas, 10 Nays, 2 Present, not voting)
- HB 3107** (146 Yeas, 0 Nays, 2 Present, not voting)
- HB 3121** (95 Yeas, 53 Nays, 1 Present, not voting)
- HB 3140** (100 Yeas, 48 Nays, 1 Present, not voting)
- HB 3286** (136 Yeas, 12 Nays, 1 Present, not voting)
- HB 3324** (145 Yeas, 2 Nays, 1 Present, not voting)
- HB 3388** (144 Yeas, 0 Nays, 2 Present, not voting)
- HB 3512** (148 Yeas, 0 Nays, 1 Present, not voting)
- HB 3898** (122 Yeas, 23 Nays, 2 Present, not voting)
- HB 4018** (117 Yeas, 26 Nays, 1 Present, not voting)
- HB 4374** (145 Yeas, 2 Nays, 1 Present, not voting)
- HB 4545** (104 Yeas, 41 Nays, 2 Present, not voting)

**HB 4580** (93 Yeas, 51 Nays, 1 Present, not voting)

**HB 4584** (104 Yeas, 39 Nays, 1 Present, not voting)

**HB 4609** (97 Yeas, 50 Nays, 1 Present, not voting)

**HB 4612** (93 Yeas, 52 Nays, 3 Present, not voting)

**HB 4646** (99 Yeas, 43 Nays, 1 Present, not voting)

**HB 4652** (87 Yeas, 53 Nays, 2 Present, not voting)

**HB 4658** (100 Yeas, 43 Nays, 2 Present, not voting)

**HJR 99** (126 Yeas, 13 Nays, 1 Present, not voting)

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

**HB 2315**

House Conferees: Turner, John - Chair/Collier/Meyer/Murr/Rose

**HB 3880**

House Conferees: Dutton - Chair/Huberty/Meyer/Parker/Toth

**HB 4124**

House Conferees: Hinojosa - Chair/Hernandez/Ortega/Price/Raymond

**HB 4272**

House Conferees: Klick - Chair/Howard/Jetton/Oliverson/Zwiener

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**(Senator Bettencourt in Chair)**

**SENATE BILL 248 WITH HOUSE AMENDMENTS**

**(Motion In Writing)**

Senator Johnson called **SB 248** 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**

A BILL TO BE ENTITLED

AN ACT

relating to the sale of cigarettes, tobacco products, and e-cigarettes; requiring occupational permits; imposing fees; providing civil and administrative penalties; creating criminal offenses.

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

SECTION 1. Subtitle G, Title 2, Health and Safety Code, is amended by adding Chapter 147 to read as follows:

CHAPTER 147. E-CIGARETTE RETAILER PERMITSSUBCHAPTER A. GENERAL PROVISIONS

Sec. 147.0001. DEFINITIONS. In this chapter:

(1) "Commercial business location" means the entire premises occupied by a permit applicant or a person required to hold a permit under this chapter.

(2) "E-cigarette" has the meaning assigned by Section 161.081.

(3) "E-cigarette retailer" means a person who engages in the business of selling e-cigarettes to consumers, including a person who sells e-cigarettes to consumers through a marketplace.

(4) "Marketplace" has the meaning assigned by Section 151.0242, Tax Code.

(5) "Permit holder" means a person who obtains a permit under Section 147.0052.

(6) "Place of business" means:

(A) a commercial business location where e-cigarettes are sold;

(B) a commercial business location where e-cigarettes are kept for sale or consumption or otherwise stored; or

(C) a vehicle from which e-cigarettes are sold.

Sec. 147.0002. INAPPLICABILITY TO CERTAIN PRODUCTS. This chapter does not apply to a product described by Section 161.0815.

Sec. 147.0003. HEARINGS. Unless otherwise provided by this chapter, the comptroller shall conduct all hearings required by this chapter in accordance with Chapter 2001, Government Code. The comptroller may designate one or more representatives to conduct the hearings and may prescribe the rules of procedure governing the hearings.

Sec. 147.0004. RULES. The comptroller may adopt rules to implement this chapter, including rules exempting a person who sells e-cigarettes to consumers through a marketplace from the requirements of this chapter.

SUBCHAPTER B. PERMITS

Sec. 147.0051. E-CIGARETTE RETAILER PERMIT REQUIRED. (a) A person may not engage in business as an e-cigarette retailer in this state unless the person has been issued a permit from the comptroller.

(b) An e-cigarette retailer shall obtain a permit for each place of business owned or operated by the e-cigarette retailer. The comptroller may not issue a permit for a place of business that is a residence or a unit in a public storage facility.

(c) The comptroller shall prescribe the form and content of an application for a permit and provide the form on request.

(d) The applicant shall accurately complete all information required by the application and provide the comptroller with additional information the comptroller considers necessary.

(e) Each applicant that applies for a permit to sell e-cigarettes from a vehicle must provide the make, model, vehicle identification number, registration number, and any other information concerning the vehicle the comptroller requires.

(f) All financial information provided under this section is confidential and not subject to Chapter 552, Government Code.

(g) Permits for engaging in business as an e-cigarette retailer are governed exclusively by the provisions of this code.

Sec. 147.0052. ISSUANCE OF PERMIT. (a) The comptroller shall issue a permit to an applicant if the comptroller:

(1) has received an application and fee;

(2) does not reject the application and deny the permit under Section 147.0053; and

(3) determines that issuing the permit will not jeopardize the administration and enforcement of this chapter.

(b) The permit shall be issued for a designated place of business, except as provided by Section 147.0056.

(c) The permits are nonassignable.

(d) The permit must indicate the type of permit and authorize the sale of e-cigarettes in this state. The permit must show that it is revocable and shall be forfeited or suspended if the conditions of issuance, provisions of this chapter, or rules of the comptroller are violated.

Sec. 147.0053. DENIAL OF PERMIT. The comptroller may reject an application and deny a permit if the comptroller finds, after notice and opportunity for hearing, any of the following:

(1) the premises where business will be conducted are not adequate to protect the e-cigarettes; or

(2) the applicant or managing employee, or if the applicant is a corporation, an officer, director, manager, or any stockholder who holds directly or through family or partner relationship 10 percent or more of the corporation's stock, or, if the applicant is a partnership, a partner or manager:

(A) has failed to disclose any information required by Sections 147.0051(d) and (e); or

(B) has previously violated provisions of this chapter.

Sec. 147.0054. PERMIT PERIOD; FEES. (a) A permit required by this chapter expires on the last day of May of each even-numbered year.

(b) An application for a permit required by this chapter must be accompanied by a fee of:

(1) one-half of the amount of the fee for a retailer's permit required by Section 154.111(b), Tax Code, if at the time of application the applicant holds a valid retailer's permit under Section 154.101, 154.102, or 155.041, Tax Code, for the same place of business; or

(2) the amount of the fee for a retailer's permit required by Section 154.111(b), Tax Code.

(c) For a new permit required by Section 147.0051, the comptroller shall prorate the fee according to the number of months remaining during the period that the permit is to be in effect.

(d) A person who does not obtain a renewal permit in a timely manner must pay a late fee of \$50 in addition to the application fee for the permit.

(e) If on the date of issuance a permit will expire within three months, the comptroller may collect the prorated permit fee or the fee for the current period and, with the consent of the permit holder, may collect the fee for the next permit period and issue a permit or permits for both periods, as applicable.

(f) A person issued a permit for a place of business that permanently closes before the permit expiration date is not entitled to a refund of the permit fee.

Sec. 147.0055. PAYMENT FOR PERMITS. (a) An applicant for a permit required by Section 147.0051 shall send the required fee with the application.

(b) The payment must be made in cash or by money order, check, or credit card.

(c) The comptroller may not issue a permit in exchange for a check until after the comptroller receives full payment on the check.

Sec. 147.0056. DISPLAY OF PERMIT. (a) A permit holder shall keep the permit on public display at the place of business for which the permit was issued.

(b) A permit holder who has a permit assigned to a vehicle shall post the permit in a conspicuous place on the vehicle.

Sec. 147.0057. REVENUE. Revenue from the sale of e-cigarette retailer's permits shall be deposited as provided by Section 161.0903 and may be appropriated only as provided by that section.

#### SUBCHAPTER C. PERMIT SUSPENSION AND REVOCATION

Sec. 147.0101. FINAL SUSPENSION OR REVOCATION OF PERMIT. (a) The comptroller may revoke or suspend a permit holder's permit if the comptroller finds, after notice and hearing as provided by this section, that the permit holder violated this chapter or a rule adopted under this chapter.

(b) If the comptroller intends to suspend or revoke a permit, the comptroller shall provide the permit holder with written notice that includes a statement:

(1) of the reason for the intended revocation or suspension;

(2) that the permit holder is entitled to a hearing by the comptroller on the proposed suspension or revocation; and

(3) of the date, time, and place of the hearing.

(c) The comptroller shall deliver the written notice by personal service or by mail to the permit holder's mailing address as it appears in the comptroller's records. Service by mail is complete when the notice is deposited with the United States Postal Service.

(d) The comptroller shall give the permit holder notice before the 10th day before the final hearing.

(e) A permit holder may appeal the comptroller's decision to a district court in Travis County not later than the 30th day after the date the comptroller's decision becomes final.

(f) A person whose permit is suspended or revoked may not sell, offer for sale, or distribute e-cigarettes from the place of business to which the permit applied until a new permit is granted or the suspension is removed.

Sec. 147.0102. SUMMARY SUSPENSION OF PERMIT. (a) The comptroller may suspend a permit holder's permit without notice or a hearing for the permit holder's failure to comply with this chapter or a rule adopted under this chapter if the permit holder's continued operation constitutes an immediate and substantial threat.

(b) If the comptroller summarily suspends a permit holder's permit, proceedings for a preliminary hearing before the comptroller or the comptroller's representative must be initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than the 10th day after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the permit holder must show cause why the permit should not remain suspended pending a final hearing on suspension or revocation.

(d) Chapter 2001, Government Code, does not apply to a summary suspension under this section.

(e) To initiate a proceeding to suspend summarily a permit holder's permit, the comptroller shall serve notice on the permit holder informing the permit holder of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. The notice must be personally served on the permit holder or an officer, employee, or agent of the permit holder or sent by certified or registered mail, return receipt requested, to the permit holder's mailing address as it appears in the comptroller's records. The notice must state the alleged violations that constitute the grounds for summary suspension. The suspension is effective at the time the notice is served. If notice is served in person, the permit holder shall immediately surrender the permit to the comptroller. If notice is served by mail, the permit holder shall immediately return the permit to the comptroller.

(f) Section 147.0101, governing hearings for final suspension or revocation of a permit under this chapter, governs a final administrative hearing.

#### SUBCHAPTER D. PENALTIES

Sec. 147.0151. PENALTIES. (a) A person violates this chapter if the person:

(1) engages in the business of an e-cigarette retailer without a permit; or

(2) is a person who is subject to a provision of this chapter or a rule adopted by the comptroller under this chapter and who violates the provision or rule.

(b) A person who violates this section shall pay to the state a penalty of not more than \$2,000 for each violation.

(c) Each day on which a violation occurs is a separate violation.

(d) The attorney general shall bring suit to recover penalties under this section.

(e) A suit under this section may be brought in Travis County or another county having jurisdiction.

Sec. 147.0152. FAILURE TO HAVE PERMIT; OFFENSE. (a) A person commits an offense if the person acts as an e-cigarette retailer and:

(1) receives or possesses e-cigarettes without having a permit;

(2) receives or possesses e-cigarettes without having a permit posted where it can be easily seen by the public; or

(3) sells e-cigarettes without having a permit.

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

SECTION 2. Sections 161.081(1-a), (2), and (4), Health and Safety Code, are amended to read as follows:

(1-a) (A) "E-cigarette" means:



(i) an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device; or

(ii) a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this subdivision.

(B) The term "e-cigarette" does not include a prescription medical device unrelated to the cessation of smoking.

(C) The term "e-cigarette" includes:

(i) [~~(A)~~] a device described by this subdivision regardless of whether the device is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and

(ii) [~~(B)~~] a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

(2) "Permit holder" has the meaning assigned by Section 147.0001 of this code or Section 154.001 or 155.001, Tax Code, as applicable.

(4) "Retailer" means a person who engages in the practice of selling cigarettes, e-cigarettes, or tobacco products to consumers and includes the owner of a coin-operated cigarette, e-cigarette, or tobacco product vending machine. The term includes a retailer as [~~that term is~~] defined by Section 154.001 or 155.001, Tax Code, and an e-cigarette retailer as defined by Section 147.0001 of this code, as applicable.

SECTION 3. Section 161.083(d), Health and Safety Code, is amended to read as follows:

(d) Notwithstanding any other provision of law, a violation of this section is not a violation of this subchapter for purposes of Section 161.0901 [~~154.1142 or 155.0592, Tax Code~~].

SECTION 4. Subchapter H, Chapter 161, Health and Safety Code, is amended by adding Sections 161.0901 and 161.0903 to read as follows:

Sec. 161.0901. DISCIPLINARY ACTION AGAINST CIGARETTE, E-CIGARETTE, AND TOBACCO PRODUCT RETAILERS. (a) A retailer is subject to disciplinary action as provided by this section if an agent or employee of the retailer commits an offense under this subchapter.

(b) If the comptroller finds, after notice and an opportunity for a hearing as provided by Chapter 2001, Government Code, that a permit holder has violated this subchapter at a place of business for which a permit is issued, the comptroller may suspend the permit for that place of business and administratively assess a fine as follows:

(1) for the first violation of this subchapter during the 24-month period preceding the violation at that place of business, the comptroller may require the permit holder to pay a fine in an amount not to exceed \$1,000;

(2) for the second violation of this subchapter during the 24-month period preceding the most recent violation at that place of business, the comptroller may require the permit holder to pay a fine in an amount not to exceed \$2,000; and

(3) for the third violation of this subchapter during the 24-month period preceding the most recent violation at that place of business, the comptroller may:

(A) require the permit holder to pay a fine in an amount not to exceed \$3,000; and  
(B) suspend the permit for that place of business for not more than five days.

(c) Except as provided by Subsection (e), for the fourth or a subsequent violation of this subchapter during the 24-month period preceding the most recent violation at that place of business, the comptroller shall revoke the permit issued under Chapter 147 of this code or Chapter 154 or 155, Tax Code, as applicable. If the permit holder does not hold a permit under Chapter 147 of this code or Chapter 154 or 155, Tax Code, the comptroller shall revoke the permit issued under Section 151.201, Tax Code.

(d) A permit holder whose permit has been revoked under this section may not apply for a permit for the same place of business before the expiration of six months after the effective date of the revocation.

(e) For purposes of this section, the comptroller may suspend a permit for a place of business but may not revoke the permit under Subsection (c) if the comptroller finds that:

(1) the permit holder has not violated this subchapter more than seven times at the place of business in the 48-month period preceding the violation in question;

(2) the permit holder requires its employees to attend a comptroller-approved seller training program;

(3) the employees have actually attended a comptroller-approved seller training program; and

(4) the permit holder has not directly or indirectly encouraged the employees to violate the law.

(f) The comptroller may adopt rules to implement this section.

Sec. 161.0903. USE OF CERTAIN REVENUE. Revenue from fees collected under Section 161.123 and from the sale of permits under Chapter 147 of this code, retailer permits under Chapter 154, Tax Code, and retailer permits under Chapter 155, Tax Code, shall be deposited in the general revenue fund and may be appropriated only as provided by this section. The revenue shall be appropriated, in order of priority, to:

(1) the comptroller for the purpose of administering retailer permitting under Chapter 147 of this code and Chapters 154 and 155, Tax Code;

(2) the comptroller for the purpose of administering and enforcing this subchapter and Subchapters K and N;

(3) the department for the purpose of administering programs under Sections 161.253 and 161.301; and

(4) the appropriate entity for the purpose of administering that entity's responsibilities under Section 161.302.

SECTION 5. Section 161.123(b), Health and Safety Code, is amended to read as follows:

(b) The comptroller shall collect the fee [~~and deposit the money~~] as provided in this section.

SECTION 6. Section 111.00455(b), Tax Code, is amended to read as follows:

(b) The following are not contested cases under Subsection (a) and Section 2003.101, Government Code:

(1) a show cause hearing or any hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount, except for a hearing under Section 151.157(f), 151.1575(c), or 151.712(g) of this code or Section 161.0901, Health and Safety Code~~[-154.1142, or 155.0592]~~;

(2) a property value study hearing under Subchapter M, Chapter 403, Government Code;

(3) a hearing in which the issue relates to:

(A) Chapters 72-75, Property Code;

(B) forfeiture of a right to do business;

(C) a certificate of authority;

(D) articles of incorporation;

(E) a penalty imposed under Section 151.703(d);

(F) the refusal or failure to settle under Section 111.101; or

(G) a request for or revocation of an exemption from taxation; and

(4) any other hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount.

SECTION 7. Section 154.001, Tax Code, is amended by amending Subdivisions (9), (14), and (19) and adding Subdivisions (11-a) and (11-b) to read as follows:

(9) "First sale" means, except as otherwise provided by this chapter:

(A) the first transfer of possession in connection with a purchase, sale, or any exchange for value of cigarettes in or into this state, which:

(i) includes the sale of cigarettes by:

(a) a distributor in or outside this state to a distributor, wholesaler, or retailer in this state; and

(b) a manufacturer in this state who transfers the cigarettes in this state; and

(ii) does not include:

(a) the sale of cigarettes by a manufacturer outside this state to a distributor in this state; ~~[or]~~

(b) the transfer of cigarettes from a manufacturer outside this state to a bonded agent in this state;

(c) the sale of cigarettes by a manufacturer, bonded agent, distributor, or importer to an interstate warehouse in this state; or

(d) the transfer of cigarettes by an interstate warehouse in an interstate warehouse transaction;

(B) the first use or consumption of cigarettes in this state; or

(C) the loss of cigarettes in this state whether through negligence, theft, or other unaccountable loss.

(11-a) "Interstate warehouse" means a person in this state who receives unstamped cigarettes from a manufacturer, bonded agent, distributor, or importer and stores the cigarettes exclusively for an interstate warehouse transaction.

(11-b) "Interstate warehouse transaction" means the sale or delivery of cigarettes from an interstate warehouse to a person located in another state who is licensed or permitted by the other state to affix that state's cigarette stamps or otherwise pay the state's excise tax on cigarettes as required.

(14) "Permit holder" means a bonded agent, interstate warehouse, distributor, wholesaler, manufacturer, importer, export warehouse, or retailer who obtains a permit under Section 154.101.

(19) "Wholesaler" means a person, including a manufacturer's representative, who sells or distributes cigarettes in this state for resale but who is not a distributor or interstate warehouse.

SECTION 8. Section 154.041, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) No stamp is required on the transfer of possession of cigarettes described by Section 154.001(9)(A)(ii)(d).

SECTION 9. Section 154.101, Tax Code, is amended by amending Subsections (a), (b), and (h) and adding Subsection (k) to read as follows:

(a) A person may not engage in business as a distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, export warehouse, importer, or retailer unless the person has applied for and received the applicable permit from the comptroller.

(b) Each distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, export warehouse, importer, or retailer shall obtain a permit for each place of business owned or operated by the distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, export warehouse, importer, or retailer. The comptroller may not issue a permit for a place of business that is a residence or a unit in a public storage facility.

(h) Permits for engaging in business as a distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, export warehouse, importer, or retailer shall be governed exclusively by the provisions of this code.

(k) A person may not hold a distributor's permit issued by this state and an interstate warehouse's permit for the same location.

SECTION 10. Section 154.1015, Tax Code, is amended by amending Subsections (c), (d), and (e) and adding Subsection (j) to read as follows:

(c) A manufacturer outside this state who is not a permitted distributor may sell cigarettes only to a permitted distributor or permitted interstate warehouse.

(d) A permitted distributor may sell cigarettes only to a permitted distributor, wholesaler, or retailer. A permitted distributor who manufactures or produces cigarettes in this state may sell those cigarettes to a permitted interstate warehouse.

(e) A permitted importer may sell cigarettes only to a permitted interstate warehouse, distributor, wholesaler, or retailer.

(j) A permitted interstate warehouse may sell cigarettes only in an interstate warehouse transaction. An interstate warehouse may not make an intrastate sale of cigarettes without written authorization by the comptroller.

SECTION 11. Section 154.102(a), Tax Code, is amended to read as follows:

(a) The comptroller may issue a combination permit for cigarettes and tobacco products to a person who is a distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, importer, or retailer as defined by this chapter and Chapter 155 for both cigarettes and tobacco products. An interstate warehouse may not hold a combination permit as a retailer of cigarettes or tobacco products.

SECTION 12. Sections 154.110(a) and (d), Tax Code, are amended to read as follows:

(a) The comptroller shall issue a permit to a distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, export warehouse, importer, or retailer if the comptroller:

- (1) has received an application and fee, if required;
- (2) believes that the applicant has complied with Section 154.101; and
- (3) determines that issuing the permit will not jeopardize the administration and enforcement of this chapter.

(d) The permit must indicate the type of permit that it is and authorize the sale of cigarettes in this state, except as provided by Section 154.1015(j). The permit must show that it is revocable and shall be forfeited or suspended if the conditions of issuance, provisions of this chapter, or rules of the comptroller are violated.

SECTION 13. Section 154.111(b), Tax Code, is amended to read as follows:

(b) An application for a permit required by this chapter must be accompanied by a fee of:

- (1) \$300 for a bonded agent's permit;
- (1-a) \$300 for an interstate warehouse's permit;
- (2) \$300 for a distributor's permit;
- (3) \$200 for a wholesaler's permit;
- (4) \$15 for each permit for a vehicle if the applicant is also applying for a permit as a bonded agent, distributor, or wholesaler or has received a current permit from the comptroller under Sections 154.101 and 154.110; and
- (5) \$180 for a retailer's permit.

SECTION 14. Section 154.1135(b), Tax Code, is amended to read as follows:

(b) The payment must be made in cash or by money order, ~~or~~ check, or credit card.

SECTION 15. Sections 154.121(a) and (b), Tax Code, are amended to read as follows:

(a) Except as provided by Subsection (b), revenue from the sale of permits to distributors, wholesalers, ~~and~~ bonded agents, and interstate warehouses is allocated in the same manner as other revenue allocated by Subchapter J.

(b) Revenue from the sale of retailer's permits shall be deposited as provided by Section 161.0903, Health and Safety Code, [to the general revenue fund] and may be appropriated only as provided by that [this] section. ~~[The money may be appropriated first to the comptroller for administration of licensing of retailers under this chapter or Chapter 155.]~~

SECTION 16. Section 154.152(c), Tax Code, is amended to read as follows:

(c) A person may not transport or cause to be transported from this state cigarettes for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise

tax on the cigarettes imposed by the state in which the cigarettes are to be sold. This subsection does not apply to the distribution, sale, or transportation of cigarettes sold by an interstate warehouse in an interstate warehouse transaction.

SECTION 17. Section 154.201, Tax Code, is amended to read as follows:

Sec. 154.201. RECORD OF PURCHASE OR RECEIPT. Each distributor, wholesaler, bonded agent, interstate warehouse, and export warehouse shall keep records at each place of business of all cigarettes purchased or received, including records of those cigarettes for which no tax is due under federal law. Each retailer shall keep records at a single commercial business location, which the retailer shall designate as its principal place of business in this state, of all cigarettes purchased and received. These records must include:

- (1) the name and address of the shipper or carrier and the mode of transportation;
- (2) all shipping records or copies of records, including invoices, bills of lading, waybills, freight bills, and express receipts;
- (3) the date and the name of the place of origin of the cigarette shipment;
- (4) the date and the name of the place of arrival of the cigarette shipment;
- (5) a statement of the number, kind, and price paid for cigarettes, including cigarettes in stamped and unstamped packages;
- (6) the name, address, permit number, and tax identification number of the seller;
- (7) in the case of a distributor, copies of the customs certificates required by 19 U.S.C. Section 1681a(c), as amended, for all cigarettes imported into the United States to which the distributor has affixed a tax stamp; and
- (8) any other information required by rules of the comptroller.

SECTION 18. Section 154.203, Tax Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Each interstate warehouse, distributor, and wholesaler shall keep at each place of business in this state records of each sale, distribution, exchange, or use of cigarettes whether taxed under this chapter or not. Each interstate warehouse, distributor, and wholesaler shall prepare and retain an original invoice for each transaction involving cigarettes. Each interstate warehouse, distributor, or wholesaler shall keep any supporting documentation, including bills of lading, showing shipment and receipt used in preparing the invoices at the place of business of the interstate warehouse, distributor, or wholesaler. The interstate warehouse, distributor, or wholesaler shall prepare and deliver a duplicate invoice to the purchaser.

(c) On request by the comptroller, an interstate warehouse shall provide to the comptroller copies of periodic cigarette reports filed with each state into which the interstate warehouse sells cigarettes and copies of each report required under 15 U.S.C. Section 376.

SECTION 19. Section 154.501(a), Tax Code, is amended to read as follows:

(a) A person violates this chapter if the person:

- (1) is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, interstate warehouse, manufacturer's representative, or retailer and fails to keep records required by this chapter;

(2) engages in the business of a bonded agent, interstate warehouse, distributor, wholesaler, manufacturer, export warehouse, importer, or retailer without a valid permit;

(3) is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, interstate warehouse, or retailer and fails to make a report or makes a false or incomplete report or application required by this chapter to the comptroller; or

(4) is a person affected by this chapter and fails or refuses to abide by or violates a provision of this chapter or a rule adopted by the comptroller under this chapter.

SECTION 20. Section 154.503(a), Tax Code, is amended to read as follows:

(a) Except as provided by Sections 154.026(b), 154.041(f), and 154.042, a person commits an offense if the person possesses unstamped cigarettes in quantities less than 10,000.

SECTION 21. Section 154.509, Tax Code, is amended to read as follows:

Sec. 154.509. PERMITS. A person commits an offense if the person acting:

(1) as a distributor, interstate warehouse, wholesaler, or retailer, receives or possesses cigarettes without having a valid permit;

(2) as a distributor, interstate warehouse, wholesaler, or retailer, receives or possesses cigarettes without having a permit posted where it can be easily seen by the public;

(3) as a distributor, interstate warehouse, or wholesaler, does not deliver an invoice to the purchaser as required by Section 154.203;

(4) as a distributor, interstate warehouse, wholesaler, or retailer, sells cigarettes without having a valid permit; or

(5) as a bonded agent, interstate warehouse, or export warehouse, stores, distributes, or delivers cigarettes in unstamped packages without having a valid permit, except as provided by Section 154.041(f).

SECTION 22. Section 154.511, Tax Code, is amended to read as follows:

Sec. 154.511. TRANSPORTATION OF CIGARETTES. A person, other than a common carrier, commits an offense if the person:

(1) knowingly transports cigarettes without a stamp affixed to each individual package, except as provided by Section 154.024(a) or 154.152(c);

(2) wilfully refuses to stop a motor vehicle operated to transport cigarettes after a request to stop from an authorized person; or

(3) while transporting cigarettes refuses to permit a complete inspection of the cargo by an authorized person.

SECTION 23. Section 154.515(a), Tax Code, is amended to read as follows:

(a) Except as provided by Sections 154.026(b), 154.041(f), and 154.042, a person commits an offense if the person possesses unstamped cigarettes in quantities of 10,000 or more.

SECTION 24. Section 155.001, Tax Code, is amended by amending Subdivisions (8), (12), and (16) and adding Subdivisions (9-a) and (9-b) to read as follows:

(8) "First sale" means, except as otherwise provided by this chapter:

(A) the first transfer of possession in connection with a purchase, sale, or any exchange for value of tobacco products in or into this state, which:

(i) includes the sale of tobacco products by:

(a) a distributor in or outside this state to a distributor, wholesaler, or retailer in this state; and

(b) a manufacturer in this state who transfers the tobacco products in this state; and

(ii) does not include:

(a) the sale of tobacco products by a manufacturer outside this state to a distributor in this state; ~~[or]~~

(b) the transfer of tobacco products from a manufacturer outside this state to a bonded agent in this state; or

(c) the sale of tobacco products by a manufacturer, bonded agent, distributor, or importer to an interstate warehouse in this state;

(B) the first use or consumption of tobacco products in this state; or

(C) the loss of tobacco products in this state whether through negligence, theft, or other unaccountable loss.

(9-a) "Interstate warehouse" means a person in this state who receives untaxed tobacco products from a manufacturer, bonded agent, distributor, or importer and stores the tobacco products exclusively for an interstate warehouse transaction.

(9-b) "Interstate warehouse transaction" means the sale or delivery of tobacco products from an interstate warehouse to a person located in another state who is licensed or permitted by the other state to pay the state's excise tax on tobacco products as required.

(12) "Permit holder" means a bonded agent, interstate warehouse, distributor, wholesaler, manufacturer, importer, export warehouse, or retailer who obtains a permit under Section 155.041.

(16) "Wholesaler" means a person, including a manufacturer's representative, who sells or distributes tobacco products in this state for resale but who is not a distributor or interstate warehouse.

SECTION 25. Section 155.041, Tax Code, is amended by amending Subsections (a), (b), and (h) and adding Subsection (i) to read as follows:

(a) A person may not engage in business as a distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, export warehouse, importer, or retailer unless the person has applied for and received the applicable permit from the comptroller.

(b) Each distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, export warehouse, importer, or retailer shall obtain a permit for each place of business owned or operated by the distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, export warehouse, importer, or retailer.

(h) Permits for engaging in business as a distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, export warehouse, importer, or retailer shall be governed exclusively by the provisions of this code.

(i) A person may not hold a distributor's permit issued by this state and an interstate warehouse's permit for the same location.

SECTION 26. Section 155.0415, Tax Code, is amended by amending Subsections (c), (d), (e), and (f) and adding Subsection (j) to read as follows:



(c) A manufacturer outside this state who is not a permitted distributor may sell tobacco products only to a permitted distributor or a permitted interstate warehouse.

(d) A permitted distributor may sell tobacco products only to a permitted distributor, wholesaler, or retailer. A permitted distributor who manufactures or produces tobacco products in this state may sell those tobacco products to a permitted interstate warehouse.

(e) A permitted importer may sell tobacco products only to a permitted interstate warehouse, distributor, wholesaler, or retailer.

(f) A permitted wholesaler may sell tobacco products only to a permitted interstate warehouse, distributor, wholesaler, or retailer.

(j) A permitted interstate warehouse may sell tobacco products only in an interstate warehouse transaction. An interstate warehouse may not make an intrastate sale of tobacco products without written authorization by the comptroller.

SECTION 27. Sections 155.048(a) and (d), Tax Code, are amended to read as follows:

(a) The comptroller shall issue a permit to a distributor, wholesaler, bonded agent, interstate warehouse, manufacturer, importer, or retailer if the comptroller:

(1) has received an application and fee, if required;

(2) does not reject the application and deny the permit under Section 155.0481; and

(3) determines that issuing the permit will not jeopardize the administration and enforcement of this chapter.

(d) The permit must indicate the type of permit that it is and authorize the sale of tobacco products in this state, except as provided by Section 155.0415(j). The permit must show that it is revocable and shall be forfeited or suspended if the conditions of issuance, provisions of this chapter, or rules of the comptroller are violated.

SECTION 28. Section 155.049(b), Tax Code, is amended to read as follows:

(b) An application for a permit required by this chapter must be accompanied by a fee of:

(1) \$300 for a bonded agent's permit;

(1-a) \$300 for an interstate warehouse's permit;

(2) \$300 for a distributor's permit;

(3) \$200 for a wholesaler's permit;

(4) \$15 for each permit for a vehicle if the applicant is also applying for a permit as a bonded agent, distributor, or wholesaler or has received a current permit from the comptroller under Sections 155.041 and 155.048; and

(5) \$180 for a retailer's permit.

SECTION 29. Section 155.050(b), Tax Code, is amended to read as follows:

(b) The payment must be made in cash or by money order, ~~or~~ check, or credit card.

SECTION 30. Sections 155.058(a) and (b), Tax Code, are amended to read as follows:

(a) Except as provided by Subsection (b), revenue from the sale of permits to distributors, wholesalers, ~~and~~ bonded agents, and interstate warehouses is allocated in the same manner that other revenue is allocated by Subchapter H.

(b) Revenue from the sale of retailer's permits shall be deposited as provided by Section 161.0903, Health and Safety Code, ~~[to the general revenue fund]~~ and may be appropriated only as provided by that [this] section. ~~[The money may be appropriated first to the comptroller for administration of licensing of retailers under this chapter or Chapter 154.]~~

SECTION 31. Section 155.101, Tax Code, is amended to read as follows:

Sec. 155.101. RECORD OF PURCHASE OR RECEIPT. Each distributor, wholesaler, bonded agent, interstate warehouse, and export warehouse shall keep records at each place of business of all tobacco products purchased or received. Each retailer shall keep records at a single commercial business location, which the retailer shall designate as its principal place of business in the state, of all tobacco products purchased and received. These records must include ~~[the following, except that Subdivision (7) applies to distributors only and Subdivision (8) applies only to the purchase or receipt of tobacco products other than cigars]:~~

- (1) the name and address of the shipper or carrier and the mode of transportation;
- (2) all shipping records or copies of records, including invoices, bills of lading, waybills, freight bills, and express receipts;
- (3) the date and the name of the place of origin of the tobacco product shipment;
- (4) the date and the name of the place of arrival of the tobacco product shipment;
- (5) a statement of the number, kind, and price paid for the tobacco products;
- (6) the name, address, permit number, and tax identification number of the seller;
- (7) in the case of a distributor, the manufacturer's list price for the tobacco products;
- (8) for tobacco products other than cigars, the net weight as listed by the manufacturer for each unit; and
- (9) any other information required by rules of the comptroller.

SECTION 32. Section 155.102, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Each interstate warehouse, distributor, and wholesaler shall keep at each place of business in this state records of each sale, distribution, exchange, or use of tobacco products whether taxed under this chapter or not. Each interstate warehouse, distributor, and wholesaler shall prepare and retain an original invoice for each transaction involving tobacco products. Each interstate warehouse, distributor, or wholesaler shall keep any supporting documentation, including bills of lading, showing shipment and receipt used in preparing the invoices at the place of business of the interstate warehouse, distributor, or wholesaler. The interstate warehouse, distributor, or wholesaler shall prepare and deliver a duplicate invoice to the purchaser.

(b) The records for each sale, distribution, exchange, or use of tobacco products must show:

- (1) the purchaser's name and address, permit number, or tax identification number;

(2) the method of delivery and the name of the common carrier or other person delivering the tobacco products;

(3) the date, amount, and type of tobacco products sold, distributed, exchanged, or used;

(4) the price received for the tobacco products;

(5) the number and kind of tobacco products on which the tax has been paid; and

(6) for sales from a manufacturer to a distributor or interstate warehouse, the manufacturer's list price for the tobacco products.

(d) On request by the comptroller, an interstate warehouse shall provide to the comptroller copies of periodic tobacco product reports filed with each state into which the interstate warehouse sells tobacco products and copies of each report required under 15 U.S.C. Section 376.

SECTION 33. Section 155.201(a), Tax Code, is amended to read as follows:

(a) A person violates this chapter if the person:

(1) is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, interstate warehouse, manufacturer's representative, or retailer and fails to keep records required by this chapter;

(2) engages in the business of a bonded agent, interstate warehouse, distributor, wholesaler, manufacturer, export warehouse, importer, or retailer without a valid permit;

(3) is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, interstate warehouse, or retailer and fails to make a report required by this chapter to the comptroller or makes a false or incomplete report or application required by this chapter to the comptroller; or

(4) is a person affected by this chapter and fails or refuses to abide by or violates a provision of this chapter or a rule adopted by the comptroller under this chapter.

SECTION 34. Section 155.207, Tax Code, is amended to read as follows:

Sec. 155.207. PERMITS. A person commits an offense if the person acting:

(1) as a distributor, interstate warehouse, wholesaler, or retailer, receives or possesses tobacco products without having a valid permit;

(2) as a distributor, interstate warehouse, wholesaler, or retailer, receives or possesses tobacco products without having a permit posted where it can be easily seen by the public;

(3) as a distributor, interstate warehouse, or wholesaler, does not deliver an invoice to the purchaser as required by Section 155.102;

(4) as a distributor, interstate warehouse, wholesaler, or retailer, sells tobacco products without having a valid permit; or

(5) as a bonded agent, interstate warehouse, or export warehouse, stores, distributes, or delivers tobacco products on which the tax has not been paid without having a valid permit.

SECTION 35. (a) Section 161.124, Health and Safety Code, is repealed.

(b) The following provisions of the Tax Code are repealed:

(1) Section 154.1142;

(2) Section 154.1143;

- (3) Sections 154.121(c), (d), and (e);
- (4) Sections 155.058(c), (d), and (e);
- (5) Section 155.0592; and
- (6) Section 155.0593.

SECTION 36. Section 161.0901, Health and Safety Code, as added by this Act, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 37. (a) Notwithstanding Sections 147.0051, 147.0151, and 147.0152, Health and Safety Code, as added by this Act, a person is not required to hold a permit under Section 147.0051 to engage in business as a retailer of e-cigarettes in this state until January 1, 2022.

(b) The comptroller of public accounts shall prescribe the form and content of an application for a permit under Section 147.0051, Health and Safety Code, as added by this Act, and begin accepting applications for the permit not later than October 1, 2021.

SECTION 38. This Act takes effect September 1, 2021.

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

Amend **CSSB 248** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 155, Tax Code, is amended by adding Subchapter B-1 to read as follows:

#### SUBCHAPTER B-1. TAX ON ALTERNATIVE NICOTINE PRODUCTS

Sec. 155.031. DEFINITION. In this subchapter:

(1) "Alternative nicotine product" means a noncombustible product containing nicotine, but not containing tobacco leaf, that is intended for human consumption, whether chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. The term does not include an e-cigarette as defined by Section 161.081, Health and Safety Code, a vapor product, or a product regulated as a drug or device by the United States Food and Drug Administration.

(2) "Alternative nicotine product retailer" means a person who engages in the business of selling alternative nicotine products.

Sec. 155.032. APPLICATION OF OTHER PROVISIONS OF CHAPTER.

Except as otherwise provided by this subchapter:

(1) the provisions of this chapter applicable to the regulation of the distribution or sale of tobacco products apply to the distribution and sale of an alternative nicotine product, including the requirement to obtain a permit in the manner provided by Subchapter C;

(2) an alternative nicotine product retailer is subject to disciplinary action under Subchapter H, Chapter 161, Health and Safety Code, to the same extent a cigarette, e-cigarette, or tobacco product retailer is subject to disciplinary action under that subchapter; and

(3) the tax imposed under this subchapter on an alternative nicotine product is administered, imposed, collected, and enforced in the same manner as the taxes imposed on tobacco products under this chapter are administered, imposed, collected, and enforced.

Sec. 155.033. TAX IMPOSED ON ALTERNATIVE NICOTINE PRODUCTS.

(a) A tax is imposed and becomes payable when a permit holder receives alternative nicotine products for the purpose of making a first sale in this state.

(b) The tax rate for each container or package of an alternative nicotine product is \$1.22 per ounce and a proportionate rate on all fractional parts of an ounce.

(c) The computation of the tax under this section is based on the net weight as listed by the manufacturer. The total tax imposed on a unit of alternative nicotine products that contains two or more individual containers or packages is the sum of the taxes imposed by this section on each individual container or package intended for sale or distribution at retail.

The amendments were read.

Senator Johnson 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 248** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Johnson, Chair; Perry, Kolkhorst, Buckingham, and Miles.

**SENATE BILL 1123 WITH HOUSE AMENDMENT**  
**(Motion In Writing)**

Senator Perry called **SB 1123** 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**

A BILL TO BE ENTITLED  
AN ACT

relating to the issuance of and contracts for certain services related to certain specialty license plates.

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

SECTION 1. Subchapter G, Chapter 504, Transportation Code, is amended by adding Section 504.675 to read as follows:

Sec. 504.675. FAMILY FIRST LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Family First." The department shall design the plates in consultation with a representative of the Family First nonprofit organization.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account created by the comptroller in the manner provided by Section 504.6012(b). Money deposited to that account may be used only by the Texas Education Agency to make grants to a nonprofit organization with chapters operating in schools in this state whose primary purpose is promoting the importance of fatherhood.

SECTION 2. Section 504.851(i), Transportation Code, is amended to read as follows:

(i) A contract entered into by the department with a private vendor under this section:

(1) must comply with any law generally applicable to a contract for services entered into by the department;

(2) must require the private vendor to render at least quarterly to the department periodic accounts that accurately detail all material transactions, including information reasonably required by the department to support fees that are collected by the vendor, and to regularly remit all money payable to the department under the contract; ~~and~~

(3) may allow or require the private vendor to establish an electronic infrastructure coordinated and compatible with the department's registration system, by which motor vehicle owners may electronically send and receive applications, other documents, or required payments, and that, when secure access is necessary, can be electronically validated by the department; and

(4) must allow the private vendor to establish a range of premium embossed specialty license plates to be sourced, marketed, and sold by the private vendor.

SECTION 3. This Act takes effect September 1, 2021.

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 1123** 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, Hall, and Alvarado.

**SENATE BILL 828 WITH HOUSE AMENDMENTS**  
**(Motion In Writing)**

Senator Hughes called **SB 828** 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 828** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 351, Tax Code, is amended by adding Section 351.1062 to read as follows:

Sec. 351.1062. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES WITH CITY PARKS. (a) This section applies only to a municipality that:

(1) has a population of more than 7,500 but less than 12,000;

(2) has at least one hotel within 350 feet of a city park; and

(3) is wholly located in a county with a population of more than 1.8 million but less than 2.3 million.

(b) Notwithstanding any other provision of this chapter and subject to Subsections (c) and (d), a municipality to which this section applies may use revenue from the tax imposed under this chapter to promote tourism and the convention and hotel industry by constructing a sports facility and amphitheater.

(c) A municipality that uses revenue derived from the tax imposed under this chapter for the purpose described by Subsection (b):

(1) shall make a good-faith estimate of the amount of area hotel revenue that will be generated by events and activities held at the sports facility and amphitheater during the five-year period following the date on which construction is completed; and

(2) may not spend hotel occupancy tax revenue for the construction of the sports facility and amphitheater in a total amount that exceeds the amount of area hotel revenue estimated under Subdivision (1).

(d) At the end of the five-year period described by Subsection (c)(1), a municipality shall reimburse from the municipality's general fund to the municipality's hotel occupancy tax revenue fund any municipal hotel occupancy tax revenue spent on the construction of the sports facility and amphitheater in excess of the amount of area hotel revenue attributable to the sports facility and amphitheater during that period.

**Floor Amendment No. 2**

Amend **SB 828** by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 351.10692(a), Tax Code, is amended to read as follows:

(a) This section applies only to:

(1) a municipality with a population of less than 3,500 [~~2,000~~] located in a county that:

(A) [~~(+)~~] is adjacent to the county in which the State Capitol is located; and

(B) [~~(=)~~] has a population of[±

[~~(A)~~] not more than 25,000, [~~±~~] or contains portions of the Blanco and Pedernales Rivers and has a population of more than 150,000; and

(2) a municipality that has a population of not more than 20,000, that contains an outdoor gear and sporting goods retailer with retail space larger than 175,000 square feet, and that hosts an annual wiener dog race [~~(B) at least 100,000 but not more than 200,000~~].

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

Amend **SB 828** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 351.158, Tax Code, is amended to read as follows:

Sec. 351.158. PERIOD OF ENTITLEMENT. (a) A municipality is entitled to receive revenue as provided by Sections 351.156 and 351.157 until the 10th anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy.

(b) Notwithstanding Subsection (a), a municipality described by Section 351.152(10) is entitled to receive revenue as provided by Sections 351.156 and 351.157 until the 11th anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy.

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

Amend **SB 828** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 351, Tax Code, is amended by adding Subchapter D to read as follows:

#### SUBCHAPTER D. RECEIPT OF CERTAIN REVENUE BY CERTAIN MUNICIPALITIES

Sec. 351.201. EXTENSION OF PERIOD OF ENTITLEMENT TO CERTAIN REVENUE FOR CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality or nonprofit corporation acting on behalf of a municipality that received or was entitled to receive a rebate, refund, or payment of taxes under Section 151.429(h), 351.102, 351.156, or 351.157 at any time during the period beginning March 12, 2021, and ending January 1, 2022, relating to a hotel project or qualified hotel, convention center facility, or establishment, as applicable.

(b) Notwithstanding any other law, a municipality or nonprofit corporation acting on behalf of a municipality to which this section applies and that is otherwise entitled to receive revenue under Section 151.429(h), 351.102, 351.156, or 351.157 for the 10-year period following the date on which the qualifying hotel to which the entitlement relates is open for initial occupancy is entitled to receive that revenue for an additional 12-month period immediately following the expiration of the 10-year period.

(c) A municipality or nonprofit corporation acting on behalf of a municipality must request the extension of the period of entitlement provided under Subsection (b) from the comptroller in the manner the comptroller specifies. The comptroller is not required to extend the period of entitlement under Subsection (b) unless the municipality or nonprofit corporation requests the extension.



Sec. 351.202. EXPIRATION OF SUBCHAPTER. This subchapter expires January 1, 2033.

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

Amend **SB 828** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 351.101(m), Tax Code, is amended to read as follows:

(m) In addition to the uses authorized by Subsections (a) and (e), and notwithstanding any provision of this chapter to the contrary, a municipality with a population of 6,500 or less that has at least 800 hotel rooms within the corporate boundaries of the municipality and that is located in a county adjacent to a county with a population of 3.3 million or more may use revenue derived from the tax authorized by this chapter to directly enhance and promote tourism and the convention and hotel industry by acquiring sites for and constructing, improving, enlarging, equipping, repairing, operating, and maintaining ~~a municipally owned~~:

- (1) a municipally owned convention center facility;
- (2) a municipally owned sports-related facility with seating for at least 4,500 people that is used or is planned for use for one or more professional or amateur sports events or other events, including rodeos, livestock shows, and performing arts events;
- (3) a municipally owned multiuse facility that includes facilities described by Subdivisions (1) and (2); ~~and~~
- (4) related infrastructure for a facility described by Subdivision (1), (2), or (3), as that term is defined by Section 334.001(3), Local Government Code, for a venue; and
- (5) other municipal infrastructure, including an extension of a road or wastewater pipeline.

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

Amend **SB 828** on third reading as follows:

(1) Strike the SECTION of the bill amending Section 351.101(m), Tax Code, as added by second reading Amendment No. 5 by Toth.

(2) Add the following appropriately numbered SECTION to the bill and renumber the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 351.101, Tax Code, is amended by adding Subsections (m-2) and (m-3) to read as follows:

(m-2) In addition to other authorized uses, a municipality described by Subsection (m) may use revenue derived from the tax authorized by this chapter to directly enhance and promote tourism and the convention and hotel industry by constructing an extension of a road or wastewater pipeline if:

- (1) the extension will primarily serve hotels located in the municipality that are adjacent to the extension;
- (2) the extension is not more than one-half mile in length; and
- (3) on the date the revenue is spent for the extension, the municipality contains more hotel rooms than single family residences.

(m-3) Subsection (m-2) and this subsection expire January 1, 2023.

### Floor Amendment No. 2 on Third Reading

Amend **SB 828** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 352.002(d), Tax Code, is amended to read as follows:

(d) The tax imposed by a county authorized by Subsection (a)(6) [~~(a)(4), (6)~~], (8), (9), (10), (11), (14), (15), (17), (19), (20), (21), (23), or (29) to impose the tax does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel. This subsection does not apply to:

(1) a county authorized by Subsection (a)(6) to impose the tax that:

(A) has a population of less than 40,000 and adjoins the most populous county in this state; or

(B) has a population of more than 200,000 and borders the Neches River; or

(2) a county authorized by Subsection (a)(9) to impose the tax that has a population of more than 9,000.

SECTION \_\_\_\_\_. Section 352.003, Tax Code, is amended by adding Subsection (y) to read as follows:

(y) The tax rate in a county authorized to impose the tax under Section 352.002(a)(4) may not exceed two percent of the price paid for a room in a hotel.

SECTION \_\_\_\_\_. Subchapter B, Chapter 352, Tax Code, is amended by adding Section 352.114 to read as follows:

Sec. 352.114. USE OF REVENUE: CERTAIN COUNTIES CONTAINING AN INDIAN RESERVATION. (a) In addition to the purposes authorized by this chapter, the revenue from a tax imposed under this chapter by a county authorized to impose the tax under Section 352.002(a)(4) may be used to make repairs and improvements to the county airport or to provide reimbursement for repairs and improvements to the airport.

(b) A county to which this section applies may not use revenue from a tax imposed under this chapter for a purpose described by Subsection (a) in a total amount that would exceed the amount of hotel revenue in the county that is likely to be reasonably attributable to guests traveling through the airport during the 15-year period beginning on the date the county first uses the tax revenue for that purpose.

(c) A county to which this section applies may not use revenue from a tax imposed under this chapter for a purpose described by Subsection (a) after the 10th anniversary of the date the county first uses the revenue for that purpose.

The amendments were read.

Senator Hughes 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 828** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hughes, Chair; Birdwell, Zaffirini, Creighton, and Kolkhorst.

**SENATE BILL 969 WITH HOUSE AMENDMENT**  
**(Motion In Writing)**

Senator Kolkhorst called **SB 969** 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 969** on third reading as follows:

(1) On page 4, lines 21 and 22, strike "December 1, 2021" and substitute "September 1, 2022".

(2) On page 5, line 7, strike "December 1, 2021" and substitute "September 1, 2022".

(3) On page 5, line 16, between "with" and "local", insert "regional advisory councils,".

(4) On page 5, line 20, strike "December 1, 2021" and substitute "September 1, 2022".

The amendment was read.

Senator Kolkhorst 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 969** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Kolkhorst, Chair; Campbell, Perry, Powell, and Bettencourt.

**SENATE BILL 1704 WITH HOUSE AMENDMENT**  
**(Motion In Writing)**

Senator Blanco called **SB 1704** 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 1704** (house committee report) on page 1 as follows:

(1) On line 6, strike "Section 225.190" and substitute "Sections 225.190 and 225.191".

(2) Between lines 17 and 18, insert the following:

Sec. 225.191. TED HOUGHTON EXPRESSWAY. (a) Notwithstanding Section 225.001(c), the portion of State Loop 375 in El Paso County between its intersection with South El Paso Street and its intersection with Race Track Drive is designated as the Ted Houghton Expressway.

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

(1) design and construct markers indicating the designation as the Ted Houghton Expressway and any other appropriate information; and

(2) erect a marker at appropriate sites along the highway.

The amendment was read.

Senator Blanco 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 1704** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Blanco, Chair; Nichols, Hinojosa, West, and Perry.

**SENATE BILL 152 WITH HOUSE AMENDMENT  
(Motion In Writing)**

Senator Perry called **SB 152** 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**

A BILL TO BE ENTITLED  
AN ACT

relating to the regulation of groundwater conservation districts.

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

SECTION 1. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1025 to read as follows:

Sec. 36.1025. PETITION TO CHANGE RULES. (a) A person with a real property interest in groundwater may petition the district where the property that gives rise to the real property interest is located to adopt a rule or modify a rule adopted under this chapter.

(b) The district by rule shall prescribe the form for a petition submitted under this section and the procedure for the submission, consideration, and disposition of the petition.

(c) Not later than the 90th day after the date the district receives the petition, the district shall:

(1) deny the petition and provide an explanation for the denial; or

(2) engage in rulemaking consistent with the granted petition.

(d) Nothing in this section may be construed to create a private cause of action for a decision to accept or deny a petition filed under this section.

SECTION 2. Section 36.1071, Water Code, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2) to read as follows:

(b) The management plan, or any amendments to the plan, shall:

(1) be developed using the district's best available data and forwarded to the regional water planning group for use in their planning process; and

(2) include the:

(A) most recently approved desired future conditions adopted under Section 36.108; and

(B) amount of modeled available groundwater corresponding to the most recently approved desired future conditions.

(b-1) A district shall amend a management plan before the second anniversary of the adoption of desired future conditions included under Subsection (b).

(b-2) If a petition challenging the reasonableness of a desired future condition is filed under Section 36.1083(b), the executive administrator shall consider the management plan administratively complete if the district includes:

(1) the most recently approved desired future conditions adopted under Section 36.108;

(2) the amount of modeled available groundwater corresponding to the desired future conditions;

(3) a statement of the status of the petition challenging the reasonableness of a desired future condition; and

(4) the information required by Subsections (a) and (e).

SECTION 3. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1141 to read as follows:

Sec. 36.1141. NOTICE REQUIRED FOR APPLICATION FOR PERMIT OR PERMIT AMENDMENT. (a) Except as provided by Subsection (b), a district that has adopted rules regulating the spacing of wells under Section 36.116(a)(1) to require wells to be spaced a certain distance from other wells shall adopt rules requiring that notice of an application for a permit or permit amendment to drill a well or increase the production capacity of an existing well be provided to each landowner whose:

(1) land is located wholly or partly within the spacing distances from other wells under the spacing rules of the district; and

(2) right to obtain a permit or permit amendment for a well of a certain size or location under the spacing rules of the district will be affected if the district approves the application.

(b) A district is not required to adopt rules requiring notice under Subsection (a):

(1) for a replacement well to be drilled at or near the location of the well which it is intended to replace that has an equal or lesser production capacity than the well which it is intended to replace as determined by the rules of the district;

(2) for an emergency well necessary to mitigate a loss of production capacity of an existing well as determined by the rules of the district;

(3) if the notice is to be provided to the lessors of the right to produce groundwater from a property where the applicant for the permit or permit amendment is the lessee; or

(4) if the district:

(A) posts in a place readily accessible to the public at the district's main office a list of the applications described by Subsection (a) that includes the name of the applicant and address or approximate location of the well or proposed well; and

(B) posts on the home page of the district's Internet website, if the district operates an Internet website;

(i) a list described by Paragraph (A); or

(ii) a link to a web application that includes the information included on a list described by Paragraph (A).

SECTION 4. Not later than December 1, 2021, a groundwater conservation district shall adopt rules to implement Section 36.1025, Water Code, as added by this Act.

SECTION 5. The changes in law made by this Act applicable to a petition filed under Section 36.1083, Water Code, apply only to a petition filed under that section on or after the effective date of this Act. A petition filed before the effective date of this Act is governed by the law in effect on the date the hearing was conducted, and the former law is continued in effect for that purpose.

SECTION 6. Section 36.1141, Water Code, as added by this Act, applies only to an application for a permit or permit amendment submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is subject to the law in effect on the date the application is submitted, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2021.

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 152** 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; Creighton, Gutierrez, Powell, and Kolkhorst.

**(Senator Springer in Chair)**

### **CONFERENCE COMMITTEE ON HOUSE BILL 3**

**(Motion In Writing)**

Senator Birdwell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3** 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 3** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Birdwell, Chair; Whitmire, Campbell, Hall, and Blanco.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 28, 2021 - 8

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 133** (135 Yeas, 9 Nays, 2 Present, not voting)

**HB 1659** (139 Yeas, 7 Nays, 1 Present, not voting)

**HB 2352** (144 Yeas, 3 Nays, 1 Present, not voting)

**HB 4294** (133 Yeas, 14 Nays, 1 Present, not voting)

**HB 4509** (124 Yeas, 14 Nays, 1 Present, not voting)

**HB 4614** (96 Yeas, 51 Nays, 2 Present, not voting)

**HB 4627** (94 Yeas, 53 Nays, 1 Present, not voting)

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

**HB 686**

House Conferees with Instructions: Moody - Chair/Buckley/Krause/Neave/White

**HB 1525**

House Conferees: Huberty - Chair/Bernal/Dutton/King, Ken/VanDeaver

**HB 3948**

House Conferees: King, Tracy O. - Chair/Guillen/Huberty/Ramos/Raymond

**HB 4305**

House Conferees: Morales, Eddie - Chair/Burrows/King, Tracy O./Ordaz Perez/Zwiener

**HB 4492**

House Conferees: Paddie - Chair/Deshotel/King, Phil/Lucio III/Metcalf

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

**SB 248**

House Conferees: Thierry - Chair/Burrows/Meyer/Noble/Sanford

**SB 828**

House Conferees: Paddie - Chair/Clardy/Huberty/Metcalf/Morales, Eddie

**SB 969**

House Conferees: Klick - Chair/Campos/Guerra/Jetton/Oliverson

**SB 1123**

House Conferees: Krause - Chair/Sanford/Schaefer/Shahen/Vasut

**SB 1704**

House Conferees: Moody - Chair/Fierro/González, Mary/Ordaz Perez/Ortega

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE ON HOUSE BILL 1468**  
**(Motion In Writing)**

Senator Taylor called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1468** 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 1468** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Taylor, Chair; Bettencourt, West, Paxton, and Hall.

**CONFERENCE COMMITTEE ON HOUSE BILL 1929**  
**(Motion In Writing)**

Senator Buckingham 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 1929** 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 1929** 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 Buckingham, Chair; Bettencourt, Hall, Springer, and Paxton.

**CONFERENCE COMMITTEE ON HOUSE BILL 3774**

**(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 3774** 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 3774** 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; Hughes, Nelson, Hinojosa, and Campbell.

**CONFERENCE COMMITTEE ON HOUSE BILL 2593**

**(Motion In Writing)**

Senator Johnson 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 2593** 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 2593** 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 Johnson, Chair; Perry, Kolkhorst, Schwertner, and Hughes.

**CONFERENCE COMMITTEE ON HOUSE BILL 572**

**(Motion In Writing)**

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 572** 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 572** 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; Bettencourt, Buckingham, Powell, and Taylor.

**CONFERENCE COMMITTEE ON HOUSE BILL 4124**  
**(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 4124** 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 4124** 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; Taylor, Bettencourt, Schwertner, and Powell.

**CONFERENCE COMMITTEE ON HOUSE BILL 1493**  
**(Motion In Writing)**

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1493** 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 1493** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Hughes, Campbell, Zaffirini, and Nelson.

**CONFERENCE COMMITTEE ON HOUSE BILL 4272**  
**(Motion In Writing)**

Senator Kolkhorst 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 4272** 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 4272** 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 Kolkhorst, Chair; Hall, Perry, Hughes, and Blanco.

**CONFERENCE COMMITTEE ON HOUSE BILL 492**  
**(Motion In Writing)**

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 492** 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 492** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Campbell, Huffman, Nichols, and Nelson.

**CONFERENCE COMMITTEE ON HOUSE BILL 3752**  
**(Motion In Writing)**

Senator Hancock 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 3752** 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 3752** 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 Hancock, Chair; Nichols, Creighton, Seliger, and Whitmire.

**CONFERENCE COMMITTEE ON HOUSE BILL 2315**  
**(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 2315** 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 2315** 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; Bettencourt, Nichols, Nelson, and Johnson.

**CONFERENCE COMMITTEE ON HOUSE BILL 1987**  
**(Motion In Writing)**

Senator Taylor called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1987** 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 1987** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Taylor, Chair; Hughes, Campbell, Alvarado, and Lucio.

**CONFERENCE COMMITTEE ON HOUSE BILL 2462**  
**(Motion In Writing)**

Senator Paxton called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2462** 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 2462** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Paxton, Chair; Alvarado, Campbell, Huffman, and Nichols.

**CONFERENCE COMMITTEE ON HOUSE BILL 686**  
**(Motion In Writing)**

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 686** 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 686** 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; Bettencourt, Huffman, Nichols, and Nelson.

**CONFERENCE COMMITTEE ON HOUSE BILL 3578**  
**(Motion In Writing)**

Senator Johnson 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 3578** 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 3578** 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 Johnson, Chair; Powell, Buckingham, Perry, and Kolkhorst.

**CONFERENCE COMMITTEE ON HOUSE BILL 4492**  
**(Motion In Writing)**

Senator Hancock 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 4492** 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 4492** 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 Hancock, Chair; Gutierrez, Hughes, Paxton, and West.

**SENATE BILL 2233 WITH HOUSE AMENDMENTS**  
**(Motion In Writing)**

Senator Menéndez called **SB 2233** 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 2233** (house committee report) as follows:

(1) On page 3, between lines 4 and 5, insert the following:

(b) The commission must consult with at least one statewide sexual assault coalition or association regarding the conducting of and material to be included in a sexual harassment prevention training course before approving the course. The course must be trauma informed.

(2) On page 3, line 5, strike "(b)" and substitute "(c)".

(3) On page 3, line 7, strike "(c)" and substitute "(d)".

### **Floor Amendment No. 2**

Amend **SB 2233** (house committee report) on page 3, line 4, following the underlined period, by adding "The commission may not approve a training course unless the course includes bystander intervention training.".

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

Amend **SB 2233** (house committee report) as follows:

(1) On page 3, line 4, following the underlined period, add "The commission may not approve a training course unless the course takes into consideration and includes material relevant to the unique nature of the legislature.".

(2) On page 3, line 13, following the underlined period, add "The commission may not approve a training course unless the course takes into consideration and includes material relevant to the unique nature of the legislature.".

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

Amend **SB 2233** (house committee report) as follows:

(1) On page 3, between lines 6 and 7, insert the following:

(c) The commission shall post on the commission's Internet website each certificate of completion submitted to the commission under this section. The commission shall ensure that each posted certificate is stamped with the date and time the certificate was submitted to the commission.

(2) On page 3, line 7, strike "(c)" and substitute "(d)".

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

(c) The commission shall post on the commission's Internet website each certificate of completion submitted to the commission under this section. The commission shall ensure that each posted certificate is stamped with the date and time the certificate was submitted to the commission.

(4) On page 3, line 16, strike "(c)" and substitute "(d)".

The amendments were read.

Senator Menéndez 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 2233** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Menéndez, Chair; Zaffirini, Kolkhorst, Nelson, and Huffman.

**CONFERENCE COMMITTEE ON HOUSE BILL 1818**  
**(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 1818** 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 1818** 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; Campbell, Hancock, Johnson, and Birdwell.

**CONFERENCE COMMITTEE ON HOUSE BILL 671**  
**(Motion In Writing)**

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 671** 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 671** 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; Springer, Hinojosa, Bettencourt, and Perry.

**(President in Chair)**

**CONFERENCE COMMITTEE ON HOUSE BILL 1525**  
**(Motion In Writing)**

Senator Taylor called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1525** and submitted a Motion In Writing.

The Motion In Writing was read and prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1525** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Taylor, Chair; Lucio, West, Paxton, and Bettencourt.

**CONFERENCE COMMITTEE ON HOUSE BILL 3948**  
**(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 3948** and submitted a Motion In Writing that the request be granted.

The Motion In Writing was read and prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3948** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Perry, Chair; Kolkhorst, Powell, Bettencourt, and Taylor.

**CONFERENCE COMMITTEE ON HOUSE BILL 4305**  
**(Motion In Writing)**

Senator Blanco 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 4305** and submitted a Motion In Writing that the request be granted.

The Motion In Writing was read and prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 4305** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Blanco, Chair; Perry, Gutierrez, Birdwell, and Hughes.

**CONFERENCE COMMITTEE REPORT ON**  
**HOUSE BILL 3648**

Senator Hancock submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate



Honorable Dade Phelan  
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 3648** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HANCOCK  
WHITMIRE  
HUFFMAN  
NICHOLS

GEREN  
PADDIE  
HERNANDEZ  
T. KING  
P. KING

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3648** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1308**

Senator Blanco submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 1308** 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.

BLANCO  
ALVARADO  
HINOJOSA  
KOLKHORST  
NICHOLS

CANALES  
DESHOTEL  
HUNTER  
LUCIO III  
WILSON

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to a study on the impacts of using certain motor vehicle technologies.

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

**SECTION 1. STUDY. (a) In this section:**

(1) "Automated driving system" has the meaning assigned by Section 545.451, Transportation Code.

(2) "Connected driving system" means hardware and software that, when installed on a motor vehicle and engaged, allow the vehicle to electronically communicate with other vehicles and transportation infrastructure.

(b) The Texas Department of Transportation and the Department of Public Safety of the State of Texas, in consultation with the Texas A&M Transportation Institute and the appropriate federal agencies, shall jointly conduct a study on:

(1) the potential benefits of using automated driving systems, connected driving systems, and other emerging technologies to alleviate motor vehicle traffic congestion at ports of entry between this state and the United Mexican States; and

(2) the overall impact of using automated driving systems, connected driving systems, and other emerging technologies on the transportation industry workforce and the broader Texas economy, including the effects on driver and public safety.

(c) Not later than January 1, 2023, the Texas Department of Transportation and the Department of Public Safety of the State of Texas shall jointly submit to the governor, the lieutenant governor, and the legislature a report on the results of the study conducted under this section.

SECTION 2. EXPIRATION DATE. This Act expires September 1, 2023.

SECTION 3. EFFECTIVE DATE. 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, 2021.

The Conference Committee Report on **SB 1308** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1160

Senator Taylor submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 1160** 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.

TAYLOR  
BETTENCOURT  
ALVARADO  
MILES

PAUL  
GUILLEN  
KRAUSE  
MURPHY

PERRY  
On the part of the Senate

ROSENTHAL  
On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of the Gulf Coast Protection District; providing authority to issue bonds; providing authority to impose fees; providing authority to impose a tax; granting the power of eminent domain.

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

SECTION 1. Subtitle K, Title 6, Special District Local Laws Code, is amended by adding Chapter 9502 to read as follows:

CHAPTER 9502. GULF COAST PROTECTION DISTRICT  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9502.0101. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Gulf Coast Protection District.

(4) "Ecosystem restoration report" means the Sabine Pass to Galveston Bay, Texas Coastal Storm Risk Management and Ecosystem Restoration Final Integrated Feasibility Report—Environmental Impact Statement issued by the Galveston District, Southwestern Division, of the United States Army Corps of Engineers in May 2017.

(5) "Protection and restoration study" means the Coastal Texas Protection and Restoration Feasibility Study Final Integrated Feasibility Report and Environmental Impact Statement to be issued by the Galveston District, Southwestern Division, of the United States Army Corps of Engineers, the draft version of which was issued in October 2020.

Sec. 9502.0102. NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 9502.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The creation of the district is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

(b) The creation of the district is necessary to establish an instrumentality for protecting the coast in Chambers, Galveston, Harris, Jefferson, and Orange Counties in the manner provided by this chapter.

(c) The district is created to serve a public use and benefit.

(d) All land and other property included in the boundaries of the district will benefit from the works and projects accomplished by the district.

Sec. 9502.0104. DISTRICT TERRITORY. (a) The district is composed of the territory in Chambers, Galveston, Harris, Jefferson, and Orange Counties and territory annexed to the district as described by Subsection (b).

(b) The governing body of the district by order shall annex to the district the territory of a county included in the protection and restoration study at the request of the commissioners court of that county.

Sec. 9502.0105. APPLICATION OF SUNSET ACT. (a) The district is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter. The review shall be conducted under Section 325.025, Government Code, as if the authority were a state agency scheduled to be abolished September 1, 2033, and every 12th year after that year.

(b) The limited review under this section must assess the district's:

- (1) governance;
- (2) management;
- (3) operating structure; and
- (4) compliance with legislative requirements.

(c) The district shall pay the cost incurred by the Sunset Advisory Commission in performing the review. The Sunset Advisory Commission shall determine the cost, and the district shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

(d) The district may not be required to conduct a management audit under 30 T.A.C. Chapter 292.

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9502.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of 11 directors.

(b) The commissioners courts of Chambers County, Galveston County, Harris County, Jefferson County, and Orange County each shall appoint one director.

(c) The governor, with the advice and consent of the senate, shall appoint six directors as follows:

- (1) two directors to represent Harris County, in addition to the member appointed by the commissioners court under Subsection (b);
- (2) one director to represent a municipality in the district;
- (3) one director to represent ports;
- (4) one director to represent industry; and
- (5) one director to represent environmental concerns.

(d) In making the appointments required by Subsection (c), the governor shall ensure that residents of a single county do not make up a majority of the directors.

(e) The governor shall consult with:

- (1) the commissioners court of Harris County in making the appointments required by Subsection (c)(1); and
- (2) municipalities in the district in making the appointment required by Subsection (c)(2).

(f) Directors serve staggered four-year terms.

(g) When a director's term expires, the appointing entity shall appoint a successor.

(h) If a director's office becomes vacant by death, resignation, or removal, the appointing entity shall appoint a director to serve for the remainder of the unexpired term.

(i) The board shall elect a presiding officer from among the directors to serve in that position for two years. A director may serve as the presiding officer for not more than two consecutive terms.

(j) Notwithstanding Subsection (f), the governor shall designate from the 11 initial directors 5 directors to serve a first term of two years. This subsection expires September 1, 2025.

Sec. 9502.0202. QUALIFICATION. (a) To qualify for office, a director must be a registered voter who resides in the district.

(b) To qualify for office, a director described by Section 9502.0201(b) or (c)(1) or (2) must be a resident of the county or municipality the person is appointed to represent.

Sec. 9502.0203. CERTAIN CONFLICTS PROHIBITED. (a) An individual is not eligible to serve as a director if, in the preceding 24 months, the individual had an interest in or was employed by or affiliated with a person who has submitted a bid or entered into a contract for a district project.

(b) The board may not employ or appoint an individual described by Subsection (a) to work for the district.

(c) A director may not acquire a direct or indirect interest in a district project.

Sec. 9502.0204. REIMBURSEMENT. A director is not entitled to compensation but is entitled to reimbursement for necessary expenses incurred in carrying out the duties and responsibilities of the board.

Sec. 9502.0205. VOTING. A concurrence of a majority of the directors is required for transacting any business of the district.

Sec. 9502.0206. TEMPORARY EXECUTIVE DIRECTOR. The governor shall appoint a temporary executive director for the district to serve until the initial board members hire an executive director for the district.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 9502.0301. GENERAL DISTRICT POWERS. (a) Except as otherwise provided by this section, the district may:

(1) establish, construct, extend, maintain, operate, or improve a coastal barrier or storm surge gate in the manner provided by Chapter 571, Local Government Code, for a county to establish, construct, extend, maintain, or improve a seawall;

(2) exercise the authority granted to counties to conduct any project described by Chapter 571, Local Government Code;

(3) establish, construct, and maintain recreational facilities for public use and environmental mitigation facilities related to a project described by Subdivision (1) or (2);

(4) establish, construct, maintain, or operate a project recommended in the ecosystem restoration report or the protection and restoration study; and

(5) provide interior drainage remediation or improvements to reduce additional flood risk for a project recommended in the ecosystem restoration report where additional flood risk results from the design or construction of a project described by Subdivision (1), (2), or (4).

(b) Sections 571.006, 571.007, 571.008, 571.009, and 571.010, Local Government Code, do not apply to the district.

(c) Before implementing a project described by Subsection (a), the district shall consult with local, state, and federal entities to determine whether an environmental remediation response action is anticipated or located near or at the proposed location of the project.

(d) If implementation of a project described by Subsection (a) disrupts, wholly or partly, an ongoing or planned environmental remediation response action, the district shall:

(1) consult with the responsible party of the environmental remediation response action; and

(2) coordinate implementation of the project in a manner that does not disrupt the environmental remediation response action.

Sec. 9502.0302. TAXES AND BONDS. (a) The district must hold an election in the manner provided by Chapter 49, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(b) The board may impose the tax at a rate not to exceed 5 cents on each \$100 valuation.

(c) The district, without an election, may issue bonds, notes, or other obligations secured by revenue other than ad valorem taxes.

(d) The district may grant an abatement for a tax owed to the district in the manner provided by Chapter 312, Tax Code.

Sec. 9502.0303. REQUIREMENTS FOR CERTAIN PROJECTS. If the district enters into an agreement with another entity to implement a project recommended in the ecosystem restoration report or the protection and restoration study, the district:

(1) shall develop a maintenance and operation plan for the project;

(2) may enter into a partnership with a private entity to fund a local share of the cost of the project; and

(3) may use any available money to provide matching funds to the United States Army Corps of Engineers to implement the project.

Sec. 9502.0304. ACQUISITION AND DISPOSITION OF PROPERTY AND RIGHTS. (a) The district may purchase, lease, acquire by gift, maintain, use, and operate property of any kind appropriate for the exercise of the district's functions, including acquiring property by mutual agreement with a navigation district or a drainage district.

(b) The district may acquire permits, licenses, and rights related to the exercise of the district's functions.

Sec. 9502.0305. COSTS OF RELOCATION OF PROPERTY; EASEMENTS. (a) In the event that the district, in the exercise of the power of eminent domain or power of relocation or any other power, makes necessary the relocation, raising, lowering, rerouting, or change in grade of or alteration in construction of any electric transmission or distribution line or telephone properties, facilities, or pipelines, all necessary relocations, raising, lowering, rerouting, or change in grade or alteration of construction shall be done at the sole expense of the district.

(b) In this section, "sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

(c) The district has all necessary or useful rights-of-way and easements along, over, under, and across all public, state, municipal, and county roads, highways, and places for any of its purposes. The district shall restore a used facility to its previous condition as nearly as possible at the sole expense of the district.

(d) The district may acquire, sell, lease, convey, or otherwise dispose of a right-of-way or easement under terms and conditions determined by the district.

Sec. 9502.0306. AGREEMENTS. (a) The district may enter into a cooperative agreement with a political subdivision, a state agency, the United States Army Corps of Engineers, or another federal agency for a purpose related to the study, design, construction, operation, or maintenance of a district project.

(b) The district may enter into an interlocal agreement with a political subdivision for a purpose related to the study, design, construction, operation, or maintenance of a district project to include the acceptance of the assignment of rights or obligations in an existing design agreement or a project partnership agreement between the political subdivision and the United States Army Corps of Engineers.

Sec. 9502.0307. CONTRACTS GENERALLY. (a) The district may enter into contracts and execute instruments that are necessary or convenient to the exercise of the district's powers, rights, duties, and functions. A contract may be for any term, including for the life of any facility or structure in the territory of the district.

(b) The district and another governmental entity may enter into a contract for the operation or maintenance of an authorized project in the same way that a political subdivision may contract with another governmental entity under Chapter 472, Transportation Code, to construct or maintain a road or highway.

(c) The district may enter into a project partnership agreement with the United States Army Corps of Engineers for the study, design, construction, operation, and maintenance of a project recommended in the ecosystem restoration report or the protection and restoration study.

(d) A public agency or political subdivision is authorized to:

(1) enter into a contract with the district;

(2) determine, agree, and pledge that all or any part of its payments under a contract with the district shall be payable from any source, subject only to the authorization by a majority vote of the governing body of such public agency or political subdivision of the contract, pledge, and payments;

(3) use and pledge any available revenues or resources for and to the payment of amounts due under a contract with the district as an additional source of payment or as the sole source of payment and agree with the district to assure the availability of revenue and resources when required; and

(4) fix, charge, and collect impact fees and utility charges, if the public agency or political subdivision is otherwise authorized to impose the fees and charges, and to use and pledge revenue from the fees or charges to make payments to the district required under a contract with the district.

Sec. 9502.0308. REQUIREMENTS FOR CERTAIN CONTRACTS. (a) Chapter 2269, Government Code, applies to the district's public work contracts, as defined by Section 2269.001, Government Code. Section 2269.003(d), Government Code, does not apply to the district.

(b) The district shall comply with Subchapter A, Chapter 2254, Government Code.

Sec. 9502.0309. CONFLICT WITH ORDER OR ACTION OF ANOTHER POLITICAL SUBDIVISION. An order or action of the Harris County Flood Control District, a river authority, a port authority, a navigation district, or a drainage district relating to the operation or maintenance of a district project supersedes an order or action of the district to the extent of any conflict.

Sec. 9502.0310. AUTHORITY TO DEVELOP BARRIER CLOSURE PROCEDURES. If the district implements a project to create a coastal barrier, the district shall develop closure procedures in conjunction with each board of trustees established under Chapter 54, Transportation Code, port authority, navigation district, and drainage district affected by the barrier or closure. For the Texas City Channel, the district shall develop closure procedures with any common carrier terminal railroad providing rail and maritime terminal services to the users of the navigation channel.

Sec. 9502.0311. ANNUAL REPORT REQUIRED. The district shall annually submit a report to the legislature, the Legislative Budget Board, the General Land Office, and the commissioners court of each county in which the district is located.

The report must:

(1) describe the district's financial condition and operations during the preceding year;

(2) propose a budget for the following year; and

(3) describe generally the work proposed for the following year.

Sec. 9502.0312. EMINENT DOMAIN. (a) The district may exercise the power of eminent domain to acquire a fee simple or other interest in any type of property if the interest is necessary or convenient for the exercise of the district's functions. The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code.

(b) The district may not exercise the power of eminent domain to acquire property owned or operated by a port authority, navigation district, drainage district, or common carrier railroad.

SECTION 2. (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 3. (a) Section 9502.0312, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.



(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 9502, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 9502.0312 to read as follows:

Sec. 9502.0312. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) 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 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

The Conference Committee Report on **SB 1160** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1356

Senator Hughes submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 1356** 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.

HUGHES  
LUCIO  
PERRY  
POWELL  
TAYLOR

On the part of the Senate

DUTTON  
HUBERTY  
K. KING  
K. BELL  
KUEMPEL

On the part of the House

### A BILL TO BE ENTITLED AN ACT

relating to the participation by members of nonprofit teacher organizations in a tutoring program for public school students and related retirement benefits for certain tutors participating in the program.

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

SECTION 1. Section 22.092(d), Education Code, is amended to read as follows:

(d) The agency shall provide [~~private schools and public schools~~] equivalent access to the registry maintained under this section to to:

(1) private schools;

(2) public schools; and

(3) nonprofit teacher organizations approved by the commissioner for the purpose of participating in the tutoring program established under Section 33.913.

SECTION 2. Subchapter Z, Chapter 33, Education Code, is amended by adding Section 33.913 to read as follows:

Sec. 33.913. TUTORING PROGRAM. (a) A member of a nonprofit teacher organization or a person who is not a member but meets the requirements under Subsection (b) may participate in a tutoring program in accordance with this section to provide supplemental instruction to students in kindergarten through grade 12 on an individualized or small-group basis.

(b) To participate in the program as a tutor, a person must:

(1) be an active or retired teacher;

(2) apply for the position in a manner specified by the nonprofit organization;

(3) designate in the application whether the person plans to provide tutoring:

(A) for compensation, on a volunteer basis, or both; and

(B) in person, online, or both; and

(4) not be included in the registry of persons not eligible for employment by a public school under Section 22.092.

(c) The superintendent or chief executive officer of each school district or open-enrollment charter school or the person designated by the superintendent or chief executive officer shall:

(1) oversee the tutoring program within the district or school; and

(2) not later than the last day of each semester, submit a report to the board of trustees of the district or the governing body of the school that includes, with respect to that semester:

(A) the number of active or retired teachers who contacted the district or school to offer tutoring services to students in the district or school; and

(B) the number of active or retired teachers who were used by the district or school as a tutor on a volunteer basis or employed by the district or school to provide tutoring services for compensation.

(d) A school district or open-enrollment charter school may use any available local, state, or federal funds to provide compensation to a person participating in the program as a tutor who is providing tutoring for compensation under the program.

(e) If an active or retired teacher who has been approved for participation in the tutoring program contacts a school district or open-enrollment charter school to provide tutoring to students in the district or school and the district or school needs tutoring assistance, the district or school may:

(1) if the teacher is providing tutoring services on a volunteer basis, use the volunteer tutoring services provided by the teacher; or

(2) if the district or school has local, state, or federal funds for purposes of the tutoring program and the teacher is providing tutoring services for compensation, employ the teacher as a tutor.

(f) At least quarterly, each nonprofit organization participating in the tutoring program shall provide to the organization's members:

(1) a description of the tutoring program and guidance on how to participate in the program; and

(2) the contact information of each person described by Subsection (c) for the school district in which the member resides, any open-enrollment charter schools located within that district, and any adjacent districts.

(g) This section does not create a cause of action or liability or an obligation or duty that provides a basis for a cause of action or liability against a nonprofit teacher organization approved by the commissioner for the purpose of participating in the tutoring program for any action taken by a member of the organization participating in the program as a tutor.

SECTION 3. Section 824.602(a), Government Code, is amended to read as follows:

(a) Subject to Section 825.506, the retirement system may not, under Section 824.601, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution:

(1) as a substitute only with pay not more than the daily rate of substitute pay established by the employer and, if the retiree is a disability retiree, the employment has not exceeded a total of 90 days in the school year;

(2) in a position, other than as a substitute, on no more than a one-half time basis for the month;

(3) in one or more positions on as much as a full-time basis, if the retiree has been separated from service with all Texas public educational institutions for at least 12 full consecutive months after the retiree's effective date of retirement; ~~[or]~~

(4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school year, if the retiree is a disability retiree; or

(5) as a tutor under Section 33.913, Education Code.

SECTION 4. Subchapter G, Chapter 825, Government Code, is amended by adding Section 825.604 to read as follows:

Sec. 825.604. INFORMATION PROVIDED TO MEMBERS. The retirement system shall regularly provide information in an electronic format to members and retirees regarding the tutoring program established under Section 33.913, Education Code, that includes:

(1) general information regarding the tutoring program; and

(2) a statement directing members and retirees who want to participate in the tutoring program to contact their local school districts or open-enrollment charter schools for further guidance.

SECTION 5. (a) Subject to Subsection (b) of this section, the changes in law made by this Act apply to a retiree of the Teacher Retirement System of Texas regardless of whether the person retired from employment before, on, or after the effective date of this Act.

(b) Section 824.602(a), Government Code, as amended by this Act, applies only to the employment of a retiree of the Teacher Retirement System of Texas that occurs on or after the effective date of this Act.

SECTION 6. This Act applies beginning with the 2021-2022 school year.

SECTION 7. 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, 2021.

The Conference Committee Report on **SB 1356** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 281**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 281** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HINOJOSA  
BIRDWELL  
HUFFMAN  
NICHOLS  
WHITMIRE

On the part of the Senate

LUCIO III  
CANALES  
DOMINGUEZ  
LEACH  
MOODY

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the use of hypnotically induced statements in a criminal trial.

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

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.24 to read as follows:

Art. 38.24. STATEMENTS OBTAINED BY INVESTIGATIVE HYPNOSIS.

(a) In this article, "investigative hypnosis" means a technique that uses hypnosis to explore the memory of a witness to enhance the witness's recall of a legally relevant event, including descriptions of people, conversations, and the environment.

(b) This article applies to all statements made during a hypnotic session by a person who has undergone investigative hypnosis for the purpose of enhancing the person's recollection of an event at issue in a criminal investigation or case, including courtroom testimony regarding those statements and including statements identifying an accused that are made pursuant to pretrial identification procedures.

(c) A statement described by Subsection (b) is not admissible against a defendant in a criminal trial, whether offered in the guilt or innocence phase or the punishment phase of the trial. Notwithstanding Article 38.23, this article does not affect the admissibility of evidence derived from a statement described by Subsection (b) that corroborates a crime.

SECTION 2. The change in law made by this Act applies to the admissibility of a statement in a criminal proceeding that commences on or after the effective date of this Act. The admissibility of a statement in a criminal proceeding that commences before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2021.

The Conference Committee Report on **SB 281** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1138

Senator Hughes submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 1138** 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.

HUGHES  
KOLKHORST  
PERRY  
BLANCO  
LUCIO

On the part of the Senate

NOBLE  
SHAHEEN  
FRANK  
HULL  
THIERRY

On the part of the House

#### A BILL TO BE ENTITLED AN ACT

relating to a study on streamlining public safety net programs to reduce costs and improve outcomes for recipients under the programs.

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

SECTION 1. DEFINITIONS. In this Act:

(1) "Board" means the Legislative Budget Board.

(2) "Safety net program" means any needs-based state or federal program that provides food, medical, or financial assistance to a recipient under the program, including:

(A) the child health plan program under Chapter 62, Health and Safety Code;

(B) the financial assistance program under Chapter 31, Human Resources Code;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the supplemental nutrition assistance program under Chapter 33, Human Resources Code;

(E) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;

(F) the Comprehensive Energy Assistance Program administered by the Texas Department of Housing and Community Affairs in accordance with the federal Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. Section 8621 et seq.); and

(G) the child care services program operated by the Texas Workforce Commission.

SECTION 2. STUDY OF SAFETY NET PROGRAMS. (a) The board, in coordination with the Health and Human Services Commission and other applicable state agencies, shall conduct a study on safety net programs available in this state during the five-year period preceding the effective date of this Act for the purposes of:

- (1) streamlining program eligibility requirements, resources, and benefits;
- (2) improving outcomes for recipients under the programs; and
- (3) reducing costs to taxpayers.

(b) The study must include:

(1) an examination of:

(A) the total amount of:

- (i) taxpayer revenue spent per safety net program;
- (ii) state money appropriated per program; and
- (iii) federal money received per program;

(B) benefits provided under each program;

(C) the number of recipients enrolled in or otherwise receiving benefits under each program;

(D) aggregate demographic and socioeconomic information on recipients under each program including information relating to:

(i) the average household income of recipients under each program;

(ii) the employment status of recipients or, if recipients are dependents, the parents or guardians of recipients, under each program;

(iii) the marital status of recipients or, if recipients are dependents, the parents or guardians of recipients, under each program; and

(iv) the average number of dependents in recipient households under each program;

(E) duplicative services and administrative activities among programs;

(F) the percentage of state money appropriated to each program that is directly spent on providing benefits to recipients under the program and the percentage that is spent on staff and other administrative costs;

(G) the percentage of recipients who become ineligible for each program because the recipient no longer meets the income eligibility requirements;

(H) the number of individuals who begin, but do not complete, an application for benefits under each program and a statement of that number as a percentage of the overall number of recipients under each program;

(I) the rate at which former recipients of each program later reapply for benefits under the program; and

(J) the average length of time between an initial application for benefits and approval under each program;

(2) a cost-benefit analysis that compares the costs of providing each program with the program's effectiveness at transitioning recipients to self-sufficiency; and

(3) a statistical analysis of the data collected under Subdivisions (1) and (2).

(c) The board shall collect any information necessary to conduct the study from each state agency that administers or operates a safety net program. At the request of the board, each agency shall submit the requested information to the board within a reasonable time, as prescribed by the board.

(d) The board shall conduct the study and prepare the report required by Section 3 of this Act using existing resources.

SECTION 3. REPORT ON SAFETY NET PROGRAMS. Not later than September 1, 2022, the board shall:

(1) submit a report on the board's findings and recommendations to the legislature, including recommendations on how to:

(A) simplify and streamline each safety net program;

(B) improve outcomes of each program; and

(C) lower costs to taxpayers for safety net programs; and

(2) post the report on the board's Internet website.

SECTION 4. EXPIRATION. This Act expires January 1, 2023.

SECTION 5. EFFECTIVE DATE. 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, 2021.

The Conference Committee Report on **SB 1138** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1588

Senator Hughes submitted the following Conference Committee Report:

Austin, Texas

May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 1588** 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.

HUGHES  
NICHOLS  
PAXTON  
HANCOCK  
WHITMIRE

On the part of the Senate

C. TURNER  
BONNEN  
HEFNER  
SHINE  
S. THOMPSON

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the powers and duties of certain property owners' associations.

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

SECTION 1. Section 202.006, Property Code, is amended by adding Subsection (c) to read as follows:

(c) A property owners' association may not collect a regular assessment, as defined by Section 209.002, if the dedicatory instrument authorizing the collection of the regular assessment is not filed as required by Subsection (a).

SECTION 2. Sections 202.018(a) and (b), Property Code, are amended to read as follows:

(a) Except as otherwise provided by this section, a property owners' association may not enforce or adopt a provision in a dedicatory instrument, including a restrictive covenant, that prohibits a property owner or resident from displaying or affixing on the [entry to the] owner's or resident's property or dwelling one or more religious items the display of which is motivated by the owner's or resident's sincere religious belief.

(b) This section does not prohibit the enforcement or adoption of a provision in a dedicatory instrument, including a restrictive covenant, that, to the extent allowed by the constitution of this state and the United States, prohibits the display or affixing of a religious item on the [entry to the] owner's or resident's property or dwelling that:

- (1) threatens the public health or safety;
- (2) violates a law other than a law prohibiting the display of religious speech;
- (3) contains language, graphics, or any display that is patently offensive to a passerby for reasons other than its religious content;
- (4) is installed on property:
  - (A) owned or maintained by the property owners' association; or
  - (B) owned in common by members of the property owners' association;
- (5) violates any applicable building line, right-of-way, setback, or easement;

or



(6) is attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole, or fixture [in a location other than the entry door or door frame or extends past the outer edge of the door frame of the owner's or resident's dwelling; or

[~~(5) individually or in combination with each other religious item displayed or affixed on the entry door or door frame has a total size of greater than 25 square inches~~].

SECTION 3. Chapter 202, Property Code, is amended by adding Section 202.022 to read as follows:

Sec. 202.022. SWIMMING POOL ENCLOSURES. (a) In this section, "swimming pool enclosure" means a fence that:

- (1) surrounds a water feature, including a swimming pool or spa;
- (2) consists of transparent mesh or clear panels set in metal frames;
- (3) is not more than six feet in height; and
- (4) is designed to not be climbable.

(b) A property owners' association:

(1) may not adopt or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing on the property owner's property a swimming pool enclosure that conforms to applicable state or local safety requirements; and

(2) may adopt and enforce a provision in a dedicatory instrument establishing limitations related to the appearance of a swimming pool enclosure, including limitations establishing permissible colors for a swimming pool enclosure, provided that the provision does not prohibit a swimming pool enclosure that is black in color and consists of transparent mesh set in metal frames.

SECTION 4. Chapter 202, Property Code, is amended by adding Section 202.023 to read as follows:

Sec. 202.023. SECURITY MEASURES. (a) This section does not apply to:

- (1) a condominium as defined by Section 81.002 or 82.003; or
- (2) a master mixed-use property owners' association subject to Chapter 215.

(b) Except as provided by Subsection (c), a property owners' association may not adopt or enforce a restrictive covenant that prevents a property owner from building or installing security measures, including but not limited to a security camera, motion detector, or perimeter fence.

(c) This section does not prohibit a property owners' association from:

- (1) prohibiting the installation of a security camera by a property owner in a place other than the property owner's private property; or
- (2) regulating the type of fencing that a property owner may install.

SECTION 5. Section 207.001, Property Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Management company" has the meaning assigned by Section 209.002.

SECTION 6. Section 207.003(c), Property Code, is amended to read as follows:

(c) A property owners' association may charge a reasonable and necessary fee, not to exceed \$375, to assemble, copy, and deliver the information required by this section and may charge a reasonable and necessary fee, not to exceed \$75, to prepare and deliver an update of a resale certificate under Subsection (f).

SECTION 7. Section 207.004(b), Property Code, is amended to read as follows:

(b) If a property owners' association fails to deliver the information required under Section 207.003 before the fifth business ~~[seventh]~~ day after the second request for the information was mailed by certified mail, return receipt requested, or hand delivered, evidenced by receipt, the owner:

(1) may seek one or any combination of the following:

(A) a court order directing the property owners' association to furnish the required information;

(B) a judgment against the property owners' association for not more than \$5,000 ~~[\$500]~~;

(C) a judgment against the property owners' association for court costs and reasonable attorney's fees; or

(D) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Paragraphs (B) and (C) from any future regular or special assessments payable to the property owners' association; and

(2) may provide a buyer under contract to purchase the owner's property an affidavit that states that the owner, owner's agent, or title insurance company or its agent acting on behalf of the owner made, in accordance with this chapter, two written requests to the property owners' association for the information described in Section 207.003 and that the association did not timely provide the information.

SECTION 8. Section 207.006, Property Code, is amended to read as follows:

Sec. 207.006. ONLINE SUBDIVISION INFORMATION REQUIRED. (a) This section applies only to:

(1) the property owners' association of a subdivision composed of at least 60 lots; or

(2) a property owners' association that has contracted with a management company.

(b) A property owners' association to which this section applies shall make the current version of the association's dedicatory instruments relating to the association or subdivision and filed in the county deed records available on an Internet [a] website:

(1) maintained by [if] the association [has,] or a management company on behalf of the association; and

(2) available to association members [maintains, a publicly accessible website].

SECTION 9. Section 209.002, Property Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Management company" means a person or entity established or contracted to provide management or administrative services on behalf of a property owners' association.

SECTION 10. Section 209.004, Property Code, is amended by amending Subsections (a), (b), (c), and (e) and adding Subsection (b-1) to read as follows:

(a) A property owners' association shall record in each county in which any portion of the residential subdivision is located a management certificate, signed and acknowledged by an officer or the managing agent of the association, stating:

(1) the name of the subdivision;

- (2) the name of the association;
- (3) the recording data for the subdivision;
- (4) the recording data for the declaration and any amendments to the declaration;
- (5) the name and mailing address of the association;
- (6) the name, ~~and~~ mailing address, telephone number, and e-mail address of the person managing the association or the association's designated representative; ~~and~~
- (7) the website address of any Internet website on which the association's dedicatory instruments are available in accordance with Section 207.006;
- (8) the amount and description of a fee or fees charged by the association relating to a property transfer in the subdivision; and
- (9) other information the association considers appropriate.

(b) The property owners' association shall record an amended management certificate in each county in which any portion of the residential subdivision is located not later than the 30th day after the date the association has notice of a change in any information in the recorded certificate required by Subsection (a).

(b-1) Not later than the seventh day after the date a property owners' association files a management certificate for recording under Subsection (a) or files an amended management certificate for recording under Subsection (b), the property owners' association shall electronically file the management certificate or amended management certificate with the Texas Real Estate Commission. The Texas Real Estate Commission shall only collect the management certificate and amended management certificate for the purpose of making the data accessible to the general public through an Internet website.

(c) Except as provided under Subsections (d) and (e), the property owners' association and its officers, directors, employees, and agents are not subject to liability to any person for a delay in recording or failure to record a management certificate with a county clerk's office or electronically file the management certificate with the Texas Real Estate Commission, unless the delay or failure is wilful or caused by gross negligence.

(e) A lien of a property owners' association that fails to file a management certificate or an amended management certificate under this section to secure an amount due on the effective date of a transfer to a bona fide purchaser is enforceable only for an amount incurred after the effective date of sale. An owner is not liable for attorney's fees incurred by a property owners' association relating to the collection of a delinquent assessment against the owner or interest on the amount of a delinquent assessment if the attorney's fees are incurred by the association or the interest accrues during the period a management certificate is not recorded with a county clerk or electronically filed with the Texas Real Estate Commission as required by this section.

SECTION 11. Chapter 209, Property Code, is amended by adding Section 209.00505 to read as follows:

Sec. 209.00505. ARCHITECTURAL REVIEW AUTHORITY. (a) In this section, "architectural review authority" means the governing authority for the review and approval of improvements within a subdivision.

(b) This section:

(1) applies only to a property owners' association that consists of more than 40 lots; and

(2) does not apply during a development period or during any period in which the declarant:

(A) appoints at least a majority of the members of the architectural review authority or otherwise controls the appointment of the architectural review authority; or

(B) has the right to veto or modify a decision of the architectural review authority.

(c) A person may not be appointed or elected to serve on an architectural review authority if the person is:

(1) a current board member;

(2) a current board member's spouse; or

(3) a person residing in a current board member's household.

(d) A decision by the architectural review authority denying an application or request by an owner for the construction of improvements in the subdivision may be appealed to the board. A written notice of the denial must be provided to the owner by certified mail, hand delivery, or electronic delivery. The notice must:

(1) describe the basis for the denial in reasonable detail and changes, if any, to the application or improvements required as a condition to approval; and

(2) inform the owner that the owner may request a hearing under Subsection (e) on or before the 30th day after the date the notice was mailed to the owner.

(e) The board shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. Only one hearing is required under this subsection.

(f) During a hearing, the board or the designated representative of the property owners' association and the owner or the owner's designated representative will each be provided the opportunity to discuss, verify facts, and resolve the denial of the owner's application or request for the construction of improvements, and the changes, if any, requested by the architectural review authority in the notice provided to the owner under Subsection (d).

(g) The board or the owner may request a postponement. If requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties.

(h) The property owners' association or the owner may make an audio recording of the meeting.

(i) The board may affirm, modify, or reverse, in whole or in part, any decision of the architectural review authority as consistent with the subdivision's declaration.

SECTION 12. Sections 209.0051(e) and (h), Property Code, are amended to read as follows:

(e) Members shall be given notice of the date, hour, place, and general subject of a regular or special board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be:

(1) mailed to each property owner not later than the 10th day or earlier than the 60th day before the date of the meeting; or

(2) provided at least 144 ~~[72]~~ hours before the start of a regular board ~~[the]~~ meeting and at least 72 hours before the start of a special board meeting by:

(A) posting the notice in a conspicuous manner reasonably designed to provide notice to property owners' association members:

(i) in a place located on the association's common property or, with the property owner's consent, on other conspicuously located privately owned property within the subdivision; or

(ii) on any Internet website available to association members that is maintained by the association or by a management company on behalf of the association ~~[other Internet media]~~; and

(B) sending the notice by e-mail to each owner who has registered an e-mail address with the association.

(h) Except as provided by this subsection, a board may take action outside of a meeting, including voting by electronic or telephonic means, without prior notice to owners under Subsection (e), if each board member is given a reasonable opportunity to express the board member's opinion to all other board members and to vote. Any action taken without notice to owners under Subsection (e) must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special board meeting. The board may not, unless done in an open meeting for which prior notice was given to owners under Subsection (e), consider or vote on:

- (1) fines;
- (2) damage assessments;
- (3) initiation of foreclosure actions;
- (4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
- (5) increases in assessments;
- (6) levying of special assessments;
- (7) appeals from a denial of architectural control approval;
- (8) a suspension of a right of a particular owner before the owner has an opportunity to attend a board meeting to present the owner's position, including any defense, on the issue;
- (9) lending or borrowing money;
- (10) the adoption or amendment of a dedicatory instrument;
- (11) the approval of an annual budget or the approval of an amendment of an annual budget ~~[that increases the budget by more than 10 percent]~~;
- (12) the sale or purchase of real property;
- (13) the filling of a vacancy on the board;
- (14) the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements; or
- (15) the election of an officer.

SECTION 13. Section 209.0052, Property Code, is amended by adding Subsection (c) to read as follows:

(c) In addition to the other applicable requirements of this section, an association that proposes to contract for services that will cost more than \$50,000 shall solicit bids or proposals using a bid process established by the association.

SECTION 14. Section 209.006(a), Property Code, is amended to read as follows:

(a) Before a property owners' association may suspend an owner's right to use a common area, file a suit against an owner other than a suit to collect a regular or special assessment or foreclose under an association's lien, charge an owner for property damage, ~~or~~ levy a fine for a violation of the restrictions or bylaws or rules of the association, or report any delinquency of an owner to a credit reporting service, the association or its agent must give written notice to the owner by certified mail.

SECTION 15. Section 209.0063(a), Property Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a payment received by a property owners' association from the owner shall be applied to the owner's debt in the following order of priority:

- (1) any delinquent assessment;
- (2) any current assessment;
- (3) any reasonable attorney's fees or reasonable third party collection costs incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;
- (4) any reasonable attorney's fees incurred by the association that are not subject to Subdivision (3);
- (5) any reasonable fines assessed by the association; and
- (6) any other reasonable amount owed to the association.

SECTION 16. Section 209.0064(b), Property Code, is amended to read as follows:

(b) A property owners' association may not hold an owner liable for fees of a collection agent retained by the association unless the association first provides written notice to the owner by certified mail that:

- (1) specifies each delinquent amount and the total amount of the payment required to make the account current;
- (2) if the association is subject to Section 209.0062 or the association's dedicatory instruments contain a requirement to offer a payment plan, describes the options the owner has to avoid having the account turned over to a collection agent, including information regarding availability of a payment plan through the association; and
- (3) provides a period of at least 45 ~~[30]~~ days for the owner to cure the delinquency before further collection action is taken.

SECTION 17. Chapter 209, Property Code, is amended by adding Section 209.0065 to read as follows:

Sec. 209.0065. CREDIT REPORTING SERVICES. (a) A property owners' association or the association's collection agent may not report any delinquent fines, fees, or assessments to a credit reporting service that are the subject of a pending dispute between the owner and the property owners' association.

(b) A property owners' association may report the delinquent payment history of assessments, fines, and fees of property owners within its jurisdiction to a credit reporting service only if:

(1) at least 30 business days before reporting to a credit reporting service, the association sends, via certified mail, hand delivery, electronic delivery, or by other delivery means acceptable between the parties, a detailed report of all delinquent charges owed; and

(2) a property owner has been given the opportunity to enter into a payment plan.

(c) A property owners' association may not charge a fee to an individual property owner for the reporting under Subsection (b) of the delinquent payment history of assessments, fines, and fees of property owners within the association's jurisdiction to a credit reporting service.

SECTION 18. Section 209.007, Property Code, is amended by amending Subsection (a) and adding Subsections (f), (g), and (h) to read as follows:

(a) Except as provided by Subsection (d) and only if ~~if~~ the owner is entitled to an opportunity to cure the violation, the owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before ~~[a committee appointed by] the board [of the property owners' association or before the board if the board does not appoint a committee].~~

(f) Not later than 10 days before the association holds a hearing under this section, the association shall provide to an owner a packet containing all documents, photographs, and communications relating to the matter the association intends to introduce at the hearing.

(g) If an association does not provide a packet within the period described by Subsection (f), an owner is entitled to an automatic 15-day postponement of the hearing.

(h) During a hearing, a member of the board or the association's designated representative shall first present the association's case against the owner. An owner or the owner's designated representative is entitled to present the owner's information and issues relevant to the appeal or dispute.

SECTION 19. Section 209.015(c), Property Code, is amended to read as follows:

(c) An owner must obtain the approval of the property owners' association or, if applicable, an architectural review authority, as defined by Section 209.00505(a), ~~[committee]~~ established by the association or the association's dedicatory instruments, based on criteria prescribed by the dedicatory instruments specific to the use of a lot for residential purposes, including reasonable restrictions regarding size, location, shielding, and aesthetics of the residential purpose, before the owner begins the construction, placement, or erection of a building, structure, or other improvement for the residential purpose on an adjacent lot.

SECTION 20. Section 209.016, Property Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) Nothing ~~[Except as provided by Subsection (b), nothing]~~ in this section shall be construed to prohibit the adoption or enforcement of a provision in a dedicatory instrument establishing a restriction relating to occupancy or leasing.

(e) A property owners' association may request the following information to be submitted to the association regarding a lease or rental applicant:

(1) contact information, including the name, mailing address, phone number, and e-mail address of each person who will reside at a property in the subdivision under a lease; and

(2) the commencement date and term of the lease.

SECTION 21. Chapter 209, Property Code, is amended by adding Section 209.017 to read as follows:

Sec. 209.017. JUSTICE COURT JURISDICTION. An owner of property in a subdivision may bring an action for a violation of this chapter against the property owners' association of the subdivision in the justice court of a precinct in which all or part of the subdivision is located.

SECTION 22. The following provisions of the Property Code are repealed:

- (1) Sections 202.018(c) and (d);
- (2) Section 209.007(b); and
- (3) Sections 209.016(a) and (c).

SECTION 23. (a) Not later than December 1, 2021, the Texas Real Estate Commission shall establish and make available the system necessary for the electronic filing of management certificates and amended management certificates as required under Section 209.004(b-1), Property Code, as added by this Act.

(b) Notwithstanding Section 209.004(b-1), Property Code, as added by this Act, a property owners' association that has on or before December 1, 2021, recorded a management certificate or amended management certificate with a county clerk under Section 209.004, Property Code, shall electronically file the most recently recorded management certificate or amended management certificate with the Texas Real Estate Commission not later than June 1, 2022.

SECTION 24. Section 209.0052(c), Property Code, as added by this Act, applies only to a contract for services proposed by a property owners' association on or after the effective date of this Act.

SECTION 25. Section 209.0065, Property Code, as added by this Act, applies only to a fine, fee, or assessment that becomes due on or after the effective date of this Act. A fine, fee, or assessment that becomes due 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 26. Section 209.017, Property Code, as added by this Act, applies only to an action brought on or after September 1, 2021.

SECTION 27. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2021.

(b) Section 209.004(b-1), Property Code, as added by this Act, takes effect December 1, 2021.

The Conference Committee Report on **SB 1588** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 64

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas  
May 27, 2021



Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 64** 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  
BLANCO  
CAMPBELL  
HUFFMAN  
TAYLOR

WHITE  
HEFNER  
PATTERSON  
SCHAEFER  
TINDERHOLT

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to a peer support network for certain law enforcement personnel.

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

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

SUBCHAPTER M-1. PEER SUPPORT NETWORK FOR LAW ENFORCEMENT OFFICERS

Sec. 1701.621. DEFINITIONS. In this subchapter:

(1) "Law enforcement officer" means a person identified as a peace officer under Article 2.12(1), (2), (3), or (4), Code of Criminal Procedure.

(2) "Peer" means a person who is a law enforcement officer or retired law enforcement officer.

Sec. 1701.622. GENERAL POWERS AND DUTIES. (a) The commission shall develop a peer support network for law enforcement officers. The network must include:

(1) peer-to-peer support;  
(2) training for peer service coordinators and peers that includes suicide prevention training;

(3) technical assistance for program development, peer service coordinators, licensed mental health professionals, and peers; and

(4) identification, retention, and screening of licensed mental health professionals.

(b) As part of the peer support network for law enforcement officers, the commission shall ensure law enforcement officers have support in both urban and rural jurisdictions.

(c) The commission shall solicit and ensure that specialized training is provided to persons who are peers and who want to provide peer-to-peer support and other peer-to-peer services under the network.

(d) The commission may adopt rules necessary to implement this subchapter.

Sec. 1701.623. CONTRACT WITH INSTITUTION OF HIGHER EDUCATION. The commission may contract with an institution of higher education that has appropriate expertise in mental health or law enforcement to develop the peer support network under this subchapter.

Sec. 1701.624. CONFIDENTIALITY OF PARTICIPANT INFORMATION. Information relating to a law enforcement officer's participation in peer-to-peer support and other peer-to-peer services under the network is confidential and may not be disclosed under Chapter 552, Government Code, by:

- (1) the commission;
- (2) a law enforcement agency that employs a law enforcement officer participant; or
- (3) any other state agency or political subdivision in this state that employs a law enforcement officer participant.

Sec. 1701.625. PROTECTIONS RELATED TO LICENSURE. A law enforcement officer's participation in peer-to-peer support and other peer-to-peer services under the network may not:

- (1) serve as the basis for a revocation, suspension, or denial of a license issued under this chapter; or
- (2) be considered in any proceeding related to the officer's licensure under this chapter.

Sec. 1701.626. ANNUAL REPORT. Not later than December 1 of each year, the commission shall submit a report to the governor and the legislature that includes:

- (1) the number of law enforcement officers who received peer support through the peer support network for law enforcement officers;
- (2) the number of peers and peer service coordinators trained;
- (3) an evaluation of the services provided under this subchapter; and
- (4) recommendations for program improvements.

SECTION 2. Not later than January 1, 2022, the Texas Commission on Law Enforcement shall develop the peer support network for law enforcement officers, as required under Subchapter M-1, Chapter 1701, Occupations Code, as added by this Act.

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, 2021.

The Conference Committee Report on **SB 64** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 383**

Senator Powell submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 383** 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.

POWELL  
SELIGER  
BLANCO  
PERRY  
CAMPBELL

On the part of the Senate

PEREZ  
C. MORALES  
LOPEZ  
FIERRO  
FRANK

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to disclosure requirements of certain facilities that provide care for persons with Alzheimer's disease and related disorders.

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

SECTION 1. Subchapter B, Chapter 242, Health and Safety Code, is amended by adding Section 242.0405 to read as follows:

Sec. 242.0405. NOTICE OF ALZHEIMER'S DISEASE AND RELATED DISORDERS CERTIFICATION. (a) A nursing facility advertising, marketing, or otherwise promoting that the facility provides memory care services shall prepare a written notice disclosing whether the facility is certified or is not certified under Section 242.040 to provide specialized care and treatment for facility residents with Alzheimer's disease and related disorders.

(b) The nursing facility shall provide the notice described by Subsection (a) to:

(1) each facility resident; and

(2) each person applying for services from the facility or the person's next

of kin or guardian.

(c) A nursing facility that provides the notice required under Subsection (a) is not required to include the information described by Section 242.202(d)(2) in a disclosure statement provided under that section.

SECTION 2. Subchapter B, Chapter 247, Health and Safety Code, is amended by adding Section 247.0295 to read as follows:

Sec. 247.0295. NOTICE OF ALZHEIMER'S DISEASE OR RELATED DISORDERS LICENSE CLASSIFICATION. (a) An assisted living facility advertising, marketing, or otherwise promoting that the facility provides memory care services shall provide to each facility resident written notice disclosing whether the facility holds a license or does not hold a license classified under Section 247.029 to provide personal care services to residents with Alzheimer's disease or related disorders.

(b) An assisted living facility that provides the notice required under Subsection (a) is not required under Section 247.026(c-1) to include in the facility's consumer disclosure statement information on whether the facility holds a license classified under Section 247.029 to provide personal care services to residents with Alzheimer's disease or related disorders.

SECTION 3. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement Sections 242.0405 and 247.0295, Health and Safety Code, as added by this Act.

SECTION 4. This Act takes effect September 1, 2021.

The Conference Committee Report on **SB 383** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1831

Senator Taylor submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 1831** 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.

TAYLOR  
ALVARADO  
HUFFMAN  
NELSON  
WHITMIRE  
On the part of the Senate

S. THOMPSON  
BURNS  
DAVIS  
ELLZEY  
HERNANDEZ  
On the part of the House

### A BILL TO BE ENTITLED AN ACT

relating to the punishment for trafficking of persons, online solicitation of a minor, and prostitution and to the dissemination of certain information, including the required posting of certain signs, regarding human trafficking; increasing criminal penalties; providing a civil penalty.

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

SECTION 1. This Act may be cited as the No Trafficking Zone Act.

SECTION 2. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.086 to read as follows:

Sec. 37.086. REQUIRED POSTING OF WARNING SIGNS OF INCREASED TRAFFICKING PENALTIES. (a) In this section:

(1) "Premises" has the meaning assigned by Section 481.134, Health and Safety Code.

(2) "School" means a public or private primary or secondary school.

(b) Each school shall post warning signs of the increased penalties for trafficking of persons under Section 20A.02(b-1)(2), Penal Code, at the following locations:

(1) parallel to and along the exterior boundaries of the school's premises;

(2) at each roadway or other way of access to the premises;

(3) for premises not fenced, at least every five hundred feet along the exterior boundaries of the premises;

(4) at each entrance to the premises; and

(5) at conspicuous places reasonably likely to be viewed by all persons entering the premises.

(c) The agency, in consultation with the human trafficking prevention task force created under Section 402.035, Government Code, shall adopt rules regarding the placement, installation, design, size, wording, and maintenance procedures for the warning signs required under this section. The rules must require that each warning sign:

(1) include a description of the provisions of Section 20A.02(b-1), Penal Code, including the penalties for violating that section;

(2) be written in English and Spanish; and

(3) be at least 8-1/2 by 11 inches in size.

(d) The agency shall provide each school without charge the number of warning signs required to comply with this section and rules adopted under this section. If the agency is unable to provide each school with the number of signs necessary to comply with Subsection (b), the agency may:

(1) provide to a school fewer signs than the number necessary to comply with that section; and

(2) prioritize distribution of signs to schools based on reports of criminal activity in the areas near that school.

SECTION 3. (a) Notwithstanding Section 1 of this Act, this section shall be known as the Julia Wells Act.

(b) Subchapter C, Chapter 1001, Education Code, is amended by adding Section 1001.1021 to read as follows:

Sec. 1001.1021. HUMAN TRAFFICKING PREVENTION INFORMATION.

(a) The commission by rule shall require that information relating to human trafficking prevention be included in the curriculum of any driver education course or driving safety course.

(b) In developing rules under this section, the commission shall consult with the human trafficking prevention coordinating council established under Section 402.034, Government Code.

(c) Not later than May 1, 2022, the Texas Commission of Licensing and Regulation shall adopt the rules required by Section 1001.1021, Education Code, as added by this section.

(d) Each driver education course or driving safety course held on or after September 1, 2022, must include in the course curriculum the information required by Section 1001.1021, Education Code, as added by this section.

SECTION 4. Section 402.0351, Government Code, is amended to read as follows:

Sec. 402.0351. REQUIRED POSTING OF HUMAN TRAFFICKING SIGNS BY ~~AT~~ CERTAIN ENTITIES; CIVIL PENALTY ~~[TRANSPORTATION HUBS]~~.

(a) In this section:

(1) "Cosmetology facility" means a person who holds a license to operate a facility or school under Chapter 1602, Occupations Code.

(2) "Council" means the human trafficking prevention coordinating council established under Section 402.034.

(3) "Hospital" has the meaning assigned by Section 241.003, Health and Safety Code.

(4) "Massage establishment" and "massage school" have the meanings assigned by Section 455.001, Occupations Code.

(5) "Sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

(6) "Tattoo studio" has the meaning assigned by Section 146.001, Health and Safety Code.

(7) "Transportation ~~[-, transportation]~~ hub" means a bus, bus stop, train, train station, rest area, gas station with adjacent convenience store, or airport.

(a-1) Except as provided by Subsection (a-3), a person who operates any of the following entities shall post at the entity the sign prescribed under Subsection (b), or, if applicable, a similar sign or notice as prescribed by other state law:

(1) an entity permitted or licensed under Chapter 25, 26, 28, 32, 69, or 71, Alcoholic Beverage Code, other than an entity holding a food and beverage certificate;

(2) a cosmetology facility;

(3) a hospital;

(4) a massage establishment;

(5) a massage school;

(6) a sexually oriented business;

(7) a tattoo studio; or

(8) a transportation hub.

(a-2) The Parks and Wildlife Department shall post the sign prescribed under Subsection (b), or a substantially similar sign, in the manner prescribed by Subsection (d) at each state park and other recreational site under the department's jurisdiction.

(a-3) Notwithstanding any other law, a state agency that enforces another state law that requires a person described by Subsection (a-1) to post a sign or notice relating to human trafficking may by rule authorize the person to use the sign prescribed by the attorney general under Subsection (b) in lieu of the sign or notice required by the other law.

(b) The attorney general by rule shall prescribe the design and content of a sign required to be posted under this section. The sign must:

(1) contain information regarding services and assistance available to victims of human trafficking;

(2) [to be displayed at transportation hubs. The sign must] be in [both] English, [and] Spanish, and any other language determined appropriate by the attorney general in consultation with the council; and

(3) include:

(A) a toll-free [(1) the] telephone number and Internet website for accessing human trafficking resources;

(B) the contact information for reporting suspicious activity to the Department of Public Safety [of the National Human Trafficking Resource Center]; and

(C) [(2)] the key indicators that a person is a victim of human trafficking.

(c) The attorney general shall develop the sign that complies with the requirements of Subsection (b) and make the sign available on the attorney general's Internet website to persons [by rule shall prescribe the transportation hubs that are] required to post a sign under this section and to the public [described by Subsection (b)].

(d) [A person who operates a transportation hub that is required to post a sign under Subsection (c) shall post a sign described by Subsection (b) at the transportation hub.] The attorney general[:

[(1)] by rule shall prescribe the best practices for the manner in which the sign must be displayed [at the transportation hub] and any exceptions to the sign posting requirement. The rules:

(1) must require that at a minimum the sign be posted in a conspicuous place that is either:

(A) near the public entrance of the entity; or

(B) in clear view of the public and employees and near the location similar notices are customarily posted [under this section]; and

(2) may require that the sign be a certain size and that the notice be displayed in a certain font and type size [shall enforce this section].

(e) In adopting the rules under this section [Subsection (b)], the attorney general shall consult with the council [Texas Department of Transportation].

(f) If the attorney general becomes aware that a person is in violation or may be in violation of a law enforced by another state agency that requires the posting of a sign or notice relating to human trafficking, the attorney general may notify the appropriate state agency of the violation or potential violation.

(g) The attorney general shall issue a warning to a person described by Subsection (a-1) for a first violation of a rule adopted under this section. After receiving a warning for the first violation, a person who violates a rule adopted under this section is subject to a civil penalty in the amount of \$200 for each subsequent violation. Each day a violation continues is a separate violation.

SECTION 5. Section 20A.01, Penal Code, is amended by adding Subdivisions (2-a) and (2-b) to read as follows:

(2-a) "Premises" has the meaning assigned by Section 481.134, Health and Safety Code.

(2-b) "School" means a public or private primary or secondary school.

SECTION 6. Section 20A.02, Penal Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as otherwise provided by this subsection and Subsection (b-1), an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time of the offense;

(2) the commission of the offense results in the death of the person who is trafficked; or

(3) the commission of the offense results in the death of an unborn child of the person who is trafficked.

(b-1) An offense under this section is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 25 years if it is shown on the trial of the offense that the actor committed the offense in a location that was:

(1) on the premises of or within 1,000 feet of the premises of a school; or

(2) on premises or within 1,000 feet of premises where:

(A) an official school function was taking place; or

(B) an event sponsored or sanctioned by the University Interscholastic

League was taking place.

SECTION 7. Section 33.021, Penal Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) The punishment for an offense under this section is increased to the punishment prescribed for the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor committed the offense during regular public or private primary or secondary school hours; and

(2) the actor knew or reasonably should have known that the minor was enrolled in a public or private primary or secondary school at the time of the offense.

SECTION 8. Section 43.01, Penal Code, is amended by adding Subdivisions (1-f) and (2-a) to read as follows.

(1-f) "Premises" has the meaning assigned by Section 481.134, Health and Safety Code.

(2-a) "School" means a public or private primary or secondary school.

SECTION 9. Section 43.02, Penal Code, is amended by adding Subsection (c-2) to read as follows:

(c-2) The punishment prescribed for an offense under Subsection (b) is increased to the punishment prescribed for the next highest category of offense if it is shown on the trial of the offense that the actor committed the offense in a location that was:

(1) on the premises of or within 1,000 feet of the premises of a school; or

(2) on premises or within 1,000 feet of premises where:

(A) an official school function was taking place; or



(B) an event sponsored or sanctioned by the University Interscholastic League was taking place.

SECTION 10. The Texas Education Agency is required to implement the change in law made by Section 37.086(d), Education Code, as added by this Act, only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the agency may, but is not required to, implement the change in law made by Section 37.086(d), Education Code, as added by this Act, using other appropriations available for that purpose.

SECTION 11. The attorney general shall:

(1) in consultation with the human trafficking prevention coordinating council, adopt rules necessary to implement Section 402.0351, Government Code, as amended by this Act, including rules prescribing the content and design of the sign required by that section; and

(2) make the sign available on the attorney general's Internet website as required by Section 402.0351(c), Government Code, as amended by this Act.

SECTION 12. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 13. This Act takes effect September 1, 2021.

The Conference Committee Report on **SB 1831** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2483

Senator Hancock submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 2483** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HANCOCK  
CAMPBELL  
JOHNSON  
NICHOLS

P. KING  
GUILLEN  
HARLESS  
HERNANDEZ  
PADDIE

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2483** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3476**

Senator Bettencourt submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate  
Honorable Dade Phelan  
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 3476** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

BETTENCOURT  
GUTIERREZ  
PERRY  
SPRINGER

SCHOFIELD  
OLIVERSON  
ZWIENER  
RODRIGUEZ  
MOODY

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3476** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 626**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate  
Honorable Dade Phelan  
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 626** 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.

ZAFFIRINI  
CAMPBELL  
HINOJOSA

MOODY  
SMITH  
CAIN

HUFFMAN

HUGHES

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to guardianships, management trusts, and certain other procedures and proceedings for persons who are incapacitated, probate matters and proceedings, and other matters involving statutory county courts, including statutory probate courts.

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

SECTION 1. Section 30.014(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) In a civil action, including a probate or guardianship proceeding, filed in a district court, county court, ~~or~~ statutory county court, or statutory probate court, each party or the party's attorney shall include in its initial pleading:

(1) the last three numbers of the party's driver's license number, if the party has been issued a driver's license; and

(2) the last three numbers of the party's social security number, if the party has been issued a social security number.

SECTION 2. Section 33.101, Estates Code, is amended to read as follows:

Sec. 33.101. TRANSFER TO OTHER COUNTY IN WHICH VENUE IS PROPER. If probate proceedings involving the same estate are commenced in more than one county and the court making a determination of venue as provided by Section 33.053 determines that venue is proper in another county, the court clerk shall make and retain a copy of the entire file in the case and transmit the original file in electronic or paper form to the court in the county in which venue is proper. The court to which the file is transmitted shall conduct the proceeding in the same manner as if the proceeding had originally been commenced in that county.

SECTION 3. Section 33.102(a), Estates Code, is amended to read as follows:

(a) If it appears to the court at any time before the final order in a probate proceeding is rendered that the court does not have priority of venue over the proceeding, the court shall, on the application of an interested person, transfer the proceeding to the proper county by transmitting to the proper court in that county in electronic or paper form:

(1) the original file in the case; and

(2) certified copies of all entries that have been made in the judge's probate docket in the proceeding.

SECTION 4. Section 33.103, Estates Code, is amended by adding Subsection (c) to read as follows:

(c) The transmittal under Subsection (b) of the original file and the certified copy of the index may be in electronic or paper form, except that an original will filed in the probate proceeding, if any, must be delivered to the court to which the proceeding is transferred.

SECTION 5. Section 51.003(b), Estates Code, is amended to read as follows:

(b) A citation or notice issued by the county clerk must be styled "The State of Texas" and be signed by the clerk under the court's ~~clerk's~~ seal.

SECTION 6. Section 202.054, Estates Code, is amended to read as follows:

Sec. 202.054. PERSONAL SERVICE OF CITATION MAY BE REQUIRED.

(a) The court may require that service of citation in a proceeding to declare heirship be made by personal service on some or all of those named as distributees in the application filed under Section 202.005.

(b) If a distributee to be cited under Subsection (a) is absent from or is not a resident of this state, any disinterested person competent to make an oath that the citation was served may serve the citation.

SECTION 7. Section 351.351, Estates Code, is amended to read as follows:

Sec. 351.351. APPLICABILITY. This subchapter does not apply to:

(1) the appointment of an independent executor or administrator under Section 401.002 or 401.003(a); or

(2) the appointment of a successor independent administrator [~~executor~~] under Section 404.005.

SECTION 8. Section 404.0036(b), Estates Code, is amended to read as follows:

(b) If an independent executor is removed by the court under Section 404.003 or 404.0035, the court may, on application, appoint a successor independent administrator [~~executor~~] as provided by Section 404.005.

SECTION 9. The heading to Section 404.005, Estates Code, is amended to read as follows:

Sec. 404.005. COURT-APPOINTED SUCCESSOR INDEPENDENT ADMINISTRATOR [~~EXECUTOR~~].

SECTION 10. Sections 404.005(a), (b), (c), (h), and (i), Estates Code, are amended to read as follows:

(a) If the will of a person who dies testate names an independent executor who, having qualified, fails for any reason to continue to serve, or is removed for cause by the court, and the will does not name a successor independent executor or if each successor executor named in the will fails for any reason to qualify as executor or indicates by affidavit filed with the application for an order continuing independent administration the successor executor's inability or unwillingness to serve as successor independent executor, all of the distributees of the decedent as of the filing of the application for an order continuing independent administration may apply to the probate court for the appointment of a qualified person, firm, or corporation to serve as successor independent administrator [~~executor~~]. If the probate court finds that continued administration of the estate is necessary, the court shall enter an order continuing independent administration and appointing the person, firm, or corporation designated in the application as successor independent administrator [~~executor~~], unless the probate court finds that it would not be in the best interest of the estate to do so. The successor independent administrator [~~executor~~] shall serve with all of the powers and privileges granted to the successor's predecessor independent executor.

(b) Except as otherwise provided by this subsection, if a distributee described in this section is an incapacitated person, the guardian of the person of the distributee may sign the application on behalf of the distributee. If the probate court finds that either the continuing of independent administration or the appointment of the person, firm, or corporation designated in the application as successor independent administrator [~~executor~~] would not be in the best interest of the incapacitated person, then, notwithstanding Subsection (a), the court may not enter an order continuing

independent administration of the estate. If the distributee is an incapacitated person and has no guardian of the person, the court may appoint a guardian ad litem to make application on behalf of the incapacitated person if the probate court considers such an appointment necessary to protect the interest of that distributee. If a distributee described in this section is a minor and has no guardian of the person, a natural guardian of the minor may sign the application for the order continuing independent administration on the minor's behalf unless a conflict of interest exists between the minor and the natural guardian.

(c) Except as otherwise provided by this subsection, if a trust is created in the decedent's will or if the decedent's will devises property to a trustee as described by Section 254.001, the person or class of persons entitled to receive property outright from the trust on the decedent's death and those first eligible to receive the income from the trust, determined as if the trust were to be in existence on the date of the filing of the application for an order continuing independent administration, shall, for the purposes of this section, be considered to be the distributee or distributees on behalf of the trust, and any other trust or trusts coming into existence on the termination of the trust, and are authorized to apply for an order continuing independent administration on behalf of the trust without the consent or agreement of the trustee or any other beneficiary of the trust, or the trustee or any beneficiary of any other trust which may come into existence on the termination of the trust. If a person considered to be a distributee under this subsection is an incapacitated person, the trustee or cotrustee may apply for the order continuing independent administration or sign the application on the incapacitated person's behalf if the trustee or cotrustee is not the person proposed to serve as the independent administrator ~~[executor]~~.

(h) If a successor independent administrator ~~[executor]~~ is appointed under this section, then, unless the probate court shall waive bond on application for waiver, the successor independent administrator ~~[executor]~~ shall be required to enter into bond payable to and to be approved by the judge and the judge's successors in a sum that is found by the judge to be adequate under all circumstances, or a bond with one surety in an amount that is found by the judge to be adequate under all circumstances, if the surety is an authorized corporate surety.

(i) Absent proof of fraud or collusion on the part of a judge, the judge may not be held civilly liable for the commission of misdeeds or the omission of any required act of any person, firm, or corporation designated as a successor independent administrator ~~[executor]~~ under this section. Section 351.354 does not apply to an appointment of a successor independent administrator ~~[executor]~~ under this section.

SECTION 11. Section 452.006, Estates Code, is amended by adding Subsection (c) to read as follows:

(c) The appointee shall file with the court proof of service of the notice required under Subsection (a) in the manner provided by Section 51.103(b)(3).

SECTION 12. Section 503.002, Estates Code, is amended to read as follows:

Sec. 503.002. RECORDING OF CERTAIN FOREIGN TESTAMENTARY INSTRUMENTS IN LANGUAGE OTHER THAN ENGLISH [ORIGINAL SIGNATURES NOT REQUIRED]. (a) An authenticated copy of a will or other testamentary instrument described by Section 503.001(a), along with a copy of the judgment, order, or decree by which the instrument was admitted to probate that has

the attestation and certificate required by Section 501.002(c), that is written in whole or in part in a language other than English may be filed for recording in the deed records in any county in this state in which the land conveyed or disposed of in the instrument is located if:

(1) a correct English translation is recorded with the authenticated copies of the will or other testamentary instrument and judgment, order, or decree by which the instrument was admitted to probate; and

(2) the accuracy of the translation is sworn to before an officer authorized to administer oaths [Notwithstanding Section 501.002(c), the original signatures required by that section may not be required for a recordation in the deed records in accordance with Section 503.001 or for a purpose described by Section 503.051 or 503.052].

(b) The recording of an authenticated copy of a will or other testamentary instrument and a copy of the judgment, order, or decree in the manner provided by Subsection (a) operates as constructive notice from the date of filing to all persons of the:

(1) existence of the instrument; and

(2) title or titles conferred by the instrument.

SECTION 13. Section 1021.001, Estates Code, is amended to read as follows:

Sec. 1021.001. MATTERS RELATED TO GUARDIANSHIP PROCEEDING.

(a) For purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, a matter related to a guardianship proceeding includes:

(1) the granting of letters of guardianship;

(2) the settling of an account of a guardian and all other matters relating to the settlement, partition, or distribution of a ward's estate;

(3) a claim brought by or against a guardianship estate;

(4) an action for trial of title to real property that is guardianship estate property, including the enforcement of a lien against the property;

(5) an action for trial of the right of property that is guardianship estate property;

(6) after a guardianship of the estate of a ward is required to be settled as provided by Section 1204.001:

(A) an action brought by or on behalf of the former ward against a former guardian of the ward for alleged misconduct arising from the performance of the person's duties as guardian;

(B) an action calling on the surety of a guardian or former guardian to perform in place of the guardian or former guardian, which may include the award of a judgment against the guardian or former guardian in favor of the surety;

(C) an action against a former guardian of the former ward that is brought by a surety that is called on to perform in place of the former guardian;

(D) a claim for the payment of compensation, expenses, and court costs, and any other matter authorized under Chapter 1155; and

(E) a matter related to an authorization made or duty performed by a guardian under Chapter 1204; and

(7) the appointment of a trustee for a trust created under Section 1301.053 or 1301.054, the settling of an account of the trustee, and all other matters relating to the trust.

(a-1) For purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a guardianship proceeding includes:

- (1) all matters and actions described in Subsection (a);
- (2) the interpretation and administration of a testamentary trust in which a ward is an income or remainder beneficiary; and
- (3) the interpretation and administration of an inter vivos trust in which a ward is an income or remainder beneficiary.

(b) For purposes of this code, in a county in which there is a statutory probate court, a matter related to a guardianship proceeding includes:

- (1) all matters and actions described in Subsections ~~[Subsection]~~ (a) and (a-1);
- (2) a suit, action, or application filed against or on behalf of a guardianship or a trustee of a trust created under Section 1301.053 or 1301.054; and
- (3) a cause of action in which a guardian in a guardianship pending in the statutory probate court is a party.

SECTION 14. Section 1023.006, Estates Code, is amended to read as follows:

Sec. 1023.006. TRANSFER OF RECORD. When an order of transfer is made under Section 1023.005, the clerk shall record any unrecorded papers of the guardianship required to be recorded. On payment of the clerk's fee, the clerk shall transmit in electronic or paper form to the county clerk of the county to which the guardianship was ordered transferred:

- (1) the case file of the guardianship proceedings; and
- (2) a certified copy of the index of the guardianship records.

SECTION 15. Section 1023.007, Estates Code, is amended to read as follows:

Sec. 1023.007. TRANSFER EFFECTIVE. The order transferring a guardianship does not take effect until:

- (1) the case file and a certified copy of the index required by Section 1023.006 are filed in electronic or paper form in the office of the county clerk of the county to which the guardianship was ordered transferred; and
- (2) a certificate under the clerk's official seal and reporting the filing of the case file and a certified copy of the index is filed in electronic or paper form in the court ordering the transfer by the county clerk of the county to which the guardianship was ordered transferred.

SECTION 16. Section 1051.003(b), Estates Code, is amended to read as follows:

(b) A citation or notice issued by the county clerk must be styled "The State of Texas" and be signed by the clerk under the court's ~~[clerk's]~~ seal.

SECTION 17. Section 1052.052(b), Estates Code, is amended to read as follows:

- (b) Each case file must contain each order, judgment, and proceeding of the court and any other guardianship filing with the court, including each:
  - (1) application for the granting of guardianship;

(2) citation and notice, whether published or posted, including the return on the citation or notice;

(3) bond and official oath or declaration;

(4) inventory, appraisal, and list of claims;

(5) exhibit and account;

(6) report of renting;

(7) application for sale or partition of real estate;

(8) report of sale;

(9) application for authority to execute a lease for mineral development, or for pooling or unitization of lands, royalty, or other interest in minerals, or to lend or invest money;

(10) report of lending or investing money; and

(11) report of guardians of the persons.

SECTION 18. The heading to Chapter 1054, Estates Code, is amended to read as follows:

CHAPTER 1054. COURT OFFICERS, ~~[AND]~~ COURT-APPOINTED PERSONS,  
AND ATTORNEYS

SECTION 19. The heading to Subchapter E, Chapter 1054, Estates Code, is amended to read as follows:

SUBCHAPTER E. QUALIFICATIONS TO SERVE AS ~~[COURT-APPOINTED]~~  
ATTORNEY

SECTION 20. Section 1054.201, Estates Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), an ~~[An]~~ attorney representing any person's interests ~~[for an applicant for guardianship and a court-appointed attorney]~~ in a guardianship proceeding, including an attorney ad litem, must be certified by the State Bar of Texas, or a person or other entity designated by the state bar, as having successfully completed a course of study in guardianship law and procedure sponsored by the state bar or the state bar's designee.

(c) An attorney may commence representation of a person's interests and file an appearance in a guardianship proceeding before completing the course required for certification under Subsection (a), but must complete the course not later than the 14th day after the date of filing the appearance and before filing any substantive motion in the guardianship proceeding.

SECTION 21. Section 1101.001(b), Estates Code, is amended to read as follows:

(b) The application must be sworn to by the applicant and state:

(1) the proposed ward's name, sex, date of birth, and address;

(2) the name, former name, if any, relationship, and address of the person the applicant seeks to have appointed as guardian;

(3) whether guardianship of the person or estate, or both, is sought;

(3-a) whether alternatives to guardianship and available supports and services to avoid guardianship were considered;

(3-b) whether any alternatives to guardianship and supports and services available to the proposed ward considered are feasible and would avoid the need for a guardianship;



(4) the nature and degree of the alleged incapacity, the specific areas of protection and assistance requested, and the limitation or termination of rights requested to be included in the court's order of appointment, including a termination of:

(A) the right of a proposed ward who is 18 years of age or older to vote in a public election;

(B) the proposed ward's eligibility to hold or obtain a license to operate a motor vehicle under Chapter 521, Transportation Code; and

(C) the right of a proposed ward to make personal decisions regarding residence;

(5) the facts requiring the appointment of a guardian;

(6) the interest of the applicant in the appointment of a guardian;

(7) the nature and description of any kind of guardianship existing for the proposed ward in any other state;

(8) the name and address of any person or institution having the care and custody of the proposed ward;

(9) the approximate value and a detailed description of the proposed ward's property, including:

(A) liquid assets, including any compensation, pension, insurance, or allowance to which the proposed ward may be entitled; and

(B) non-liquid assets, including real property;

(10) the name and address of any person whom the applicant knows to hold a power of attorney signed by the proposed ward and a description of the type of power of attorney;

(11) for a proposed ward who is a minor, the following information if known by the applicant:

(A) the name of each of the proposed ward's parents and either the parent's address or that the parent is deceased;

(B) the name and age of each of the proposed ward's siblings, if any, and either the sibling's address or that the sibling is deceased; and

(C) if each of the proposed ward's parents and adult siblings are deceased, the names and addresses of the proposed ward's other living relatives who are related to the proposed ward within the third degree by consanguinity and who are adults;

(12) for a proposed ward who is a minor, whether the minor was the subject of a legal or conservatorship proceeding in the preceding two years and, if so:

(A) the court involved;

(B) the nature of the proceeding; and

(C) any final disposition of the proceeding;

(13) for a proposed ward who is an adult, the following information if known by the applicant:

(A) the name of the proposed ward's spouse, if any, and either the spouse's address or that the spouse is deceased;

(B) the name of each of the proposed ward's parents and either the parent's address or that the parent is deceased;

(C) the name and age of each of the proposed ward's siblings, if any, and either the sibling's address or that the sibling is deceased;

(D) the name and age of each of the proposed ward's children, if any, and either the child's address or that the child is deceased; and

(E) if there is no living spouse, parent, adult sibling, or adult child of the proposed ward, the names and addresses of the proposed ward's other living relatives who are related to the proposed ward within the third degree by consanguinity and who are adults;

(14) facts showing that the court has venue of the proceeding; and

(15) if applicable, that the person whom the applicant seeks to have appointed as a guardian is a private professional guardian who is certified under Subchapter C, Chapter 155, Government Code, and has complied with the requirements of Subchapter G, Chapter 1104.

SECTION 22. Section 1101.153(a), Estates Code, is amended to read as follows:

(a) A court order appointing a guardian must:

(1) specify:

(A) [~~(1)~~] the name of the person appointed;

(B) [~~(2)~~] the name of the ward;

(C) [~~(3)~~] whether the guardian is of the person or estate of the ward, or

both;

(D) [~~(4)~~] the amount of any bond required;

(E) [~~(5)~~] if it is a guardianship of the estate of the ward and the court considers an appraisal to be necessary, one, two, or three disinterested persons to appraise the estate and to return the appraisal to the court; and

(F) [~~(6)~~] that the clerk will issue letters of guardianship to the person appointed when the person has qualified according to law; and

(2) if the court waives the guardian's training requirement, contain a finding that the waiver is in accordance with rules adopted by the supreme court under Section 155.203, Government Code.

SECTION 23. Section 1103.003, Estates Code, is amended to read as follows:

Sec. 1103.003. EFFECTIVE DATE OF GUARDIANSHIP. If the application filed under Section 1103.001 is heard before the proposed ward's 18th birthday, a guardianship created under this chapter may not take effect and the person appointed guardian may not take the oath or make the declaration as required under Section 1105.051 or give a bond as required under Section 1105.101 until the proposed ward's 18th birthday.

SECTION 24. Section 1105.001, Estates Code, is amended by adding Subdivision (1-a) and amending Subdivision (2) to read as follows:

(1-a) "Declaration" means a declaration taken by a person appointed to serve as a guardian to qualify to serve.

(2) "Oath" means an oath [required by this chapter to be] taken by a person appointed to serve as a guardian to qualify to serve.

SECTION 25. Section 1105.002, Estates Code, is amended to read as follows:

Sec. 1105.002. MANNER OF QUALIFICATION OF GUARDIAN. (a) Except as provided by Subsection (b), a guardian is considered to have qualified when the guardian has:

(1) taken and filed the oath, or made and filed the declaration, required under Section 1105.051;

(2) given the required bond;

(3) filed the bond with the clerk; and

(4) obtained the judge's approval of the bond.

(b) A guardian who is not required to give a bond is considered to have qualified when the guardian has taken and filed the ~~[required]~~ oath, or made and filed the declaration, as required under Section 1105.051.

SECTION 26. Section 1105.003, Estates Code, is amended to read as follows:

Sec. 1105.003. PERIOD FOR TAKING OATH OR MAKING DECLARATION AND GIVING BOND. (a) Except as provided by Section 1103.003, an oath may be taken and subscribed or a declaration may be made, and a bond may be given and approved, at any time before:

(1) the 21st day after the date of the order granting letters of guardianship; or

(2) the letters of guardianship are revoked for a failure to qualify within the period allowed.

(b) A guardian of an estate must give a bond before being issued letters of guardianship unless a bond is not required under this title.

SECTION 27. The heading to Subchapter B, Chapter 1105, Estates Code, is amended to read as follows:

#### SUBCHAPTER B. OATHS AND DECLARATIONS

SECTION 28. Section 1105.051, Estates Code, is amended to read as follows:

Sec. 1105.051. OATH OR DECLARATION OF GUARDIAN. (a) A guardian shall:

(1) take an oath to discharge faithfully the duties of guardian for the person or estate, or both, of a ward; or

(2) make a declaration as prescribed by Subsection (d).

(b) If the Health and Human ~~[Department of Aging and Disability]~~ Services Commission is appointed guardian, a commission ~~[department]~~ representative shall take the oath or make the declaration required by Subsection (a).

(c) An oath taken by a person named as guardian or temporary guardian, as applicable, must be substantially as follows:

I, \_\_\_\_\_ (insert person's name), do solemnly swear that I will discharge faithfully the duties of guardian of \_\_\_\_\_ (insert "the person," "the estate," or "the person and estate") of \_\_\_\_\_ (insert ward's name), an incapacitated person, according to law.

(d) A declaration made by a person named as guardian or temporary guardian, as applicable, must be substantially as follows:

My name is \_\_\_\_\_ (insert person's name), my date of birth is \_\_\_\_\_ (insert person's date of birth), and my address is \_\_\_\_\_ (insert person's address, including country). I declare under penalty of perjury that the information in this declaration is true and correct. I solemnly declare that I will discharge faithfully the

duties of \_\_\_\_\_ (insert "guardian" or "temporary guardian," as applicable) of \_\_\_\_\_ (insert "the person," "the estate," or "the person and estate") of \_\_\_\_\_ (insert ward's name), an incapacitated person, according to law. Signed on \_\_\_\_\_ (insert date of signing).

SECTION 29. Section 1105.052, Estates Code, is amended to read as follows:

Sec. 1105.052. ADMINISTRATION OF OATH OR MAKING OF DECLARATION. The [Am] oath prescribed by Section 1105.051 may be taken before any person authorized to administer oaths under the laws of this state. The declaration prescribed by Section 1105.051 must be signed by the declarant.

SECTION 30. Section 1105.103(f), Estates Code, is amended to read as follows:

(f) If the guardian fails to give the bond required under Subsection (d) and the judge has not extended the period for giving the bond, the judge, without citation, shall remove the guardian and appoint a competent person as guardian, who shall:

- (1) administer the guardianship according to the provisions of a will or law;
- (2) take the oath or make the declaration required of a guardian under

Section 1105.051 before the person enters on the administration of the guardianship; and

(3) give bond in the same manner and in the same amount provided by this title for the issuance of original letters of guardianship.

SECTION 31. Subchapter A, Chapter 1151, Estates Code, is amended by adding Section 1151.005 to read as follows:

Sec. 1151.005. LEGAL PROCEEDINGS IN WHICH WARD IS PARTY OR WITNESS. The guardian of the person or of the estate of a ward may not be excluded from attending a legal proceeding in which the ward is:

- (1) a party; or
- (2) participating as a witness.

SECTION 32. Section 1151.351(b), Estates Code, is amended to read as follows:

(b) Unless limited by a court or otherwise restricted by law, a ward is authorized to the following:

(1) to have a copy of the guardianship order and letters of guardianship and contact information for the probate court that issued the order and letters;

(2) to have a guardianship that encourages the development or maintenance of maximum self-reliance and independence in the ward with the eventual goal, if possible, of self-sufficiency;

(3) to be treated with respect, consideration, and recognition of the ward's dignity and individuality;

(4) to reside and receive support services in the most integrated setting, including home-based or other community-based settings, as required by Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.);

(5) to consideration of the ward's current and previously stated personal preferences, desires, medical and psychiatric treatment preferences, religious beliefs, living arrangements, and other preferences and opinions;

(6) to financial self-determination for all public benefits after essential living expenses and health needs are met and to have access to a monthly personal allowance;

(7) to receive timely and appropriate health care and medical treatment that does not violate the ward's rights granted by the constitution and laws of this state and the United States;

(8) to exercise full control of all aspects of life not specifically granted by the court to the guardian;

(9) to control the ward's personal environment based on the ward's preferences;

(10) to complain or raise concerns regarding the guardian or guardianship to the court, including living arrangements, retaliation by the guardian, conflicts of interest between the guardian and service providers, or a violation of any rights under this section;

(11) to receive notice in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward, of a court proceeding to continue, modify, or terminate the guardianship and the opportunity to appear before the court to express the ward's preferences and concerns regarding whether the guardianship should be continued, modified, or terminated;

(12) to have a court investigator ~~or~~[;] guardian ad litem~~;~~ ~~or attorney ad litem~~] appointed by the court to investigate a complaint received by the court from the ward or any person about the guardianship;

(13) to participate in social, religious, and recreational activities, training, employment, education, habilitation, and rehabilitation of the ward's choice in the most integrated setting;

(14) to self-determination in the substantial maintenance, disposition, and management of real and personal property after essential living expenses and health needs are met, including the right to receive notice and object about the substantial maintenance, disposition, or management of clothing, furniture, vehicles, and other personal effects;

(15) to personal privacy and confidentiality in personal matters, subject to state and federal law;

(16) to unimpeded, private, and uncensored communication and visitation with persons of the ward's choice, except that if the guardian determines that certain communication or visitation causes substantial harm to the ward:

(A) the guardian may limit, supervise, or restrict communication or visitation, but only to the extent necessary to protect the ward from substantial harm; and

(B) the ward may request a hearing to remove any restrictions on communication or visitation imposed by the guardian under Paragraph (A);

(17) to petition the court and retain counsel of the ward's choice who holds a certificate required by Subchapter E, Chapter 1054, to represent the ward's interest for capacity restoration, modification of the guardianship, the appointment of a different guardian, or for other appropriate relief under this subchapter, including a transition to a supported decision-making agreement, except as limited by Section 1054.006;

(18) to vote in a public election, marry, and retain a license to operate a motor vehicle, unless restricted by the court;

(19) to personal visits from the guardian or the guardian's designee at least once every three months, but more often, if necessary, unless the court orders otherwise;

(20) to be informed of the name, address, phone number, and purpose of Disability Rights Texas, an organization whose mission is to protect the rights of, and advocate for, persons with disabilities, and to communicate and meet with representatives of that organization;

(21) to be informed of the name, address, phone number, and purpose of an independent living center, an area agency on aging, an aging and disability resource center, and the local mental health and intellectual and developmental disability center, and to communicate and meet with representatives from these agencies and organizations;

(22) to be informed of the name, address, phone number, and purpose of the Judicial Branch Certification Commission and the procedure for filing a complaint against a certified guardian;

(23) to contact the Department of Family and Protective Services to report abuse, neglect, exploitation, or violation of personal rights without fear of punishment, interference, coercion, or retaliation;

(24) to have the guardian, on appointment and on annual renewal of the guardianship, explain the rights delineated in this subsection in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward; and

(25) to make decisions related to sexual assault crisis services, including consenting to a forensic medical examination and treatment, authorizing the collection of forensic evidence, consenting to the release of evidence contained in an evidence collection kit and disclosure of related confidential information, and receiving counseling and other support services.

SECTION 33. Sections 1153.001(a) and (c), Estates Code, are amended to read as follows:

(a) Within one month after receiving letters of guardianship, a guardian of an estate shall provide notice requiring each person who has a claim against the estate to present the claim within the period prescribed by law. The notice must be:

(1) published in a newspaper of general circulation [~~printed~~] in the county in which the letters were issued; and

(2) sent to the comptroller by certified or registered mail, if the ward remitted or should have remitted taxes administered by the comptroller.

(c) If there is no [~~a~~] newspaper of general circulation [~~is not printed~~] in the county in which the letters of guardianship were issued, the notice must be posted and the return made and filed as otherwise required by this title.

SECTION 34. Section 1155.054(d), Estates Code, is amended to read as follows:

(d) If the court finds that a party in a guardianship proceeding acted in bad faith or without just cause in prosecuting or objecting to an application in the proceeding, the court may order [~~require~~] the party to reimburse the ward's estate for all or part of

the attorney's fees awarded under this section and shall issue judgment against the party and in favor of the estate for the amount of attorney's fees ordered [~~required~~] to be reimbursed to the estate.

SECTION 35. Section 1158.105(a), Estates Code, is amended to read as follows:

(a) A successful bid or contract for the sale of estate personal property shall be reported to the court. The laws regulating the approval [~~confirmation~~] or disapproval of a sale of real estate apply to the sale [~~of personal property~~], except that a conveyance is not required.

SECTION 36. The heading to Subchapter I, Chapter 1158, Estates Code, is amended to read as follows:

SUBCHAPTER I. SALE OF REAL ESTATE: PUBLIC AUCTION [~~SALE~~]

SECTION 37. Section 1158.401(a), Estates Code, is amended to read as follows:

(a) A public sale of real estate of an estate shall be made at public auction. Except as otherwise provided by Section 1158.403(c) [~~this title~~], the guardian of the estate shall advertise a public auction [~~sale~~] of real estate of the estate by a notice published in the county in which the estate is pending, as provided by this title for publication of notices or citations. The notice must [~~include a reference to~~]:

- (1) include a reference to the order of sale;
- (2) include the time, place, and required terms of sale; and
- (3) briefly describe [~~a brief description of~~] the real estate to be sold.

SECTION 38. Section 1158.402, Estates Code, is amended to read as follows:

Sec. 1158.402. COMPLETION [~~METHOD~~] OF AUCTION [~~SALE~~]. A public auction [~~sale~~] of real estate of an estate shall be completed on the bid of [~~made at public auction to~~] the highest bidder.

SECTION 39. Section 1158.403, Estates Code, is amended to read as follows:

Sec. 1158.403. TIME AND PLACE OF AUCTION [~~SALE~~]. (a) Except as provided by Subsection (c), a public auction [~~sale~~] of real estate of an estate shall be held [~~made~~] at:

(1) the courthouse door in the county in which the real estate is located, or if the real estate is located in more than one county, the courthouse door in any county in which the real estate is located [~~guardianship proceedings are pending~~]; or

(2) another place in a [~~that~~] county described by Subdivision (1) at which auctions [~~sales~~] of real estate are specifically authorized to be held as designated by the commissioners court of the county under Section 51.002(a), Property Code [~~made~~].

(b) Except as otherwise provided by this subsection, the auction [~~The sale~~] must occur between 10 a.m. and 4 p.m. on the first Tuesday of the month after publication of notice has been completed. If the first Tuesday of the month occurs on January 1 or July 4, the auction must occur between 10 a.m. and 4 p.m. on the first Wednesday of the month.

(c) If the court considers it advisable, the court may order the auction [~~sale~~] to be held [~~made~~] in the county in which the proceedings are pending [~~real estate is located~~], in which event notice shall be published both in that county and in the county in which the real estate is located [~~proceedings are pending~~].

SECTION 40. Section 1158.404, Estates Code, is amended to read as follows:

Sec. 1158.404. CONTINUANCE OF AUCTION [~~SALE~~]. (a) A public auction [~~sale~~] of real estate of an estate that is not completed on the day advertised may be continued from day to day by an oral public announcement of the continuance made at the conclusion of the auction [~~sale~~] each day.

(b) A continued auction [~~sale~~] must occur within the hours prescribed by Section 1158.403(b).

(c) The continuance of an auction [~~a sale~~] under this section shall be shown in the report [~~of the sale~~] made to the court under Section 1158.551.

SECTION 41. Section 1158.405, Estates Code, is amended to read as follows:

Sec. 1158.405. FAILURE OF BIDDER TO COMPLY. (a) If a person who successfully bids on real estate of the guardianship estate offered [~~for sale~~] at public auction fails to comply with the terms of the bid [~~sale~~], the property [~~real estate~~] shall be readvertised and auctioned [~~sold~~] without any further order.

(b) The person defaulting on a bid as described by Subsection (a) is liable for payment to the guardian of the estate, for the estate's benefit, of:

(1) 10 percent of the amount of the bid; and

(2) the amount of any deficiency in price on the second auction [~~sale~~].

(c) The guardian shall recover the amounts under Subsection (b) by suit in any court in the county in which the auction [~~sale~~] was held [~~made~~] that has jurisdiction over the amount claimed.

SECTION 42. The heading to Subchapter J, Chapter 1158, Estates Code, is amended to read as follows:

SUBCHAPTER J. SALE OF REAL ESTATE: CONTRACT FOR PRIVATE SALE

SECTION 43. Section 1158.451, Estates Code, is amended to read as follows:

Sec. 1158.451. TERMS [~~MANNER~~] OF SALE. The guardian of the estate may enter into a contract for the [~~A~~] private sale of real estate of the estate [~~shall be~~] made in the manner the court directs in the order of sale. Unless the court directs otherwise, additional advertising, notice, or citation concerning the sale is not required.

SECTION 44. Section 1158.502, Estates Code, is amended to read as follows:

Sec. 1158.502. PROCEDURE. The procedure for the sale of an easement or right-of-way authorized under Section 1158.501 is the same as the procedure provided by law for a private sale of real property of a ward by contract [~~at private sale~~].

SECTION 45. The heading to Subchapter L, Chapter 1158, Estates Code, is amended to read as follows:

SUBCHAPTER L. APPROVAL [~~CONFIRMATION~~] OF SALE OF REAL PROPERTY AND TRANSFER OF TITLE

SECTION 46. Section 1158.551, Estates Code, is amended to read as follows:

Sec. 1158.551. REPORT. A successful bid or private contract for the sale of estate real property shall be reported to the court ordering the sale not later than the 30th day after the date the bid [~~sale~~] is made or the property is placed under contract. The report must:

(1) be in writing, sworn to, and filed with the clerk;

(2) include:

(A) the date of the order of sale;

(B) a description of the property being sold;



(C) the time and place of the auction or date the property is placed under contract [~~sale~~];

(D) the purchaser's name;

(E) the amount of the successful bid or the purchase price for [~~which~~] each parcel of property or interest in the parcel of property auctioned or placed under contract [~~was sold~~];

(F) the terms of the sale;

(G) whether the proposed sale of the property was made at public auction or by contract [~~privately~~]; and

(H) whether the purchaser is ready to comply with the order of sale; and

(3) be noted on the guardianship docket.

SECTION 47. Section 1158.552, Estates Code, is amended to read as follows:

Sec. 1158.552. ACTION OF COURT ON REPORT [~~OF SALE~~]. After the expiration of five days from the date a report [~~of sale~~] is filed under Section 1158.551, the court shall:

(1) consider [~~inquire into~~] the manner in which the auction described in the report was held or the contract described in the report [~~sale~~] was entered into [~~made~~];

(2) consider [~~hear~~] evidence in support of or against the report; and

(3) determine the sufficiency or insufficiency of the guardian's general bond, if any has been required and given.

SECTION 48. Section 1158.553, Estates Code, is amended to read as follows:

Sec. 1158.553. APPROVAL [~~CONFIRMATION~~] OF SALE WHEN BOND NOT REQUIRED. If the guardian of the estate of a ward is not required by Subtitle D to give a general bond, the court may approve [~~confirm~~] the sale of estate real property in the manner provided by Section 1158.556(a) if the court finds that the sale is satisfactory and made in accordance with law.

SECTION 49. Sections 1158.554(a), (b), and (c), Estates Code, are amended to read as follows:

(a) If the guardian of an estate is required by Subtitle D to give a general bond, before the court approves [~~confirms~~] any sale of real estate, the court shall determine whether the bond is sufficient to protect the estate after the sale proceeds are received.

(b) If the court finds that the general bond is sufficient, the court may approve [~~confirm~~] the sale as provided by Section 1158.556(a).

(c) If the court finds that the general bond is insufficient, the court may not approve [~~confirm~~] the sale until the general bond is increased to the amount required by the court, or an additional bond is given, and approved by the court.

SECTION 50. Section 1158.556, Estates Code, is amended to read as follows:

Sec. 1158.556. APPROVAL [~~CONFIRMATION~~] OR DISAPPROVAL ORDER. (a) If the court is satisfied that the proposed sale of real property [~~a sale~~] reported under Section 1158.551 is [~~was~~] for a fair price, properly made, and [~~was~~] in conformity with law, and the court has approved any increased or additional bond that the court found necessary to protect the estate, the court shall enter an order:

(1) approving [~~confirming~~] the sale;

(2) showing conformity with [~~the provisions of~~] this chapter [~~relating to the sale~~];

(3) detailing the terms of the sale; and

(4) authorizing the guardian of the estate to convey the property on the purchaser's compliance with the terms of the sale.

(b) If the court is not satisfied that the proposed sale of real property is ~~[was]~~ for a fair price, ~~[was]~~ properly made, and ~~[was]~~ in conformity with law, the court shall enter [issue] an order setting aside the bid or contract [sale] and ordering a new sale to be made, if necessary.

(c) The court's action in approving [confirming] or disapproving a report under Section 1158.551 [of a sale] has the effect of a final judgment. Any person interested in the guardianship estate or in the sale is entitled to have an order entered under this section reviewed as in other final judgments in probate proceedings.

SECTION 51. Section 1158.557, Estates Code, is amended to read as follows:

Sec. 1158.557. DEED. Real estate of an estate that is sold shall be conveyed by a proper deed that refers to and identifies the court order approving [confirming] the sale. The deed:

(1) vests in the purchaser all right and title of the estate to, and all interest of the estate in, the property; and

(2) is prima facie evidence that the sale has met all applicable requirements of the law.

SECTION 52. Section 1158.558(a), Estates Code, is amended to read as follows:

(a) After the court has approved [confirmed] a sale and the ~~[one]~~ purchaser has complied with the terms of the sale, the guardian of the estate shall promptly execute and deliver to the purchaser a proper deed conveying the property.

SECTION 53. Section 1163.005(a), Estates Code, is amended to read as follows:

(a) The guardian of the estate shall attach to an account the guardian's affidavit stating:

(1) that the account contains a correct and complete statement of the matters to which the account relates;

(2) that the guardian has paid the bond premium for the next accounting period;

(3) that the guardian has filed all tax returns of the ward due during the accounting period;

(4) that the guardian has paid all taxes the ward owed during the accounting period, the amount of the taxes, the date the guardian paid the taxes, and the name of the governmental entity to which the guardian paid the taxes; and

(5) if the guardian is a private professional guardian, a guardianship program, or the Health and Human Services Commission ~~[Department of Aging and Disability Services]~~, whether the guardian or an individual certified under Subchapter C, Chapter 155 ~~[41]~~, Government Code, who is providing guardianship services to the ward and who is swearing to the account on the guardian's behalf, is or has been the subject of an investigation conducted by the Judicial Branch [Guardianship] Certification Commission [Board] during the accounting period.

SECTION 54. Section 1163.101(c), Estates Code, is amended to read as follows:

(c) The guardian of the person shall file a sworn affidavit that contains:

- (1) the guardian's current name, address, and telephone number;
- (2) the ward's date of birth and current name, address, telephone number, and age;
- (3) a description of the type of home in which the ward resides, which shall be described as:
  - (A) the ward's own home;
  - (B) a nursing home;
  - (C) a guardian's home;
  - (D) a foster home;
  - (E) a boarding home;
  - (F) a relative's home, in which case the description must specify the relative's relationship to the ward;
  - (G) a hospital or medical facility; or
  - (H) another type of residence;
- (4) statements indicating:
  - (A) the length of time the ward has resided in the present home;
  - (B) the reason for a change in the ward's residence, if a change in the ward's residence has occurred in the past year;
  - (C) the date the guardian most recently saw the ward;
  - (D) how frequently the guardian has seen the ward in the past year;
  - (E) whether the guardian has possession or control of the ward's estate;
  - (F) whether the ward's mental health has improved, deteriorated, or remained unchanged during the past year, including a description of the change if a change has occurred;
  - (G) whether the ward's physical health has improved, deteriorated, or remained unchanged during the past year, including a description of the change if a change has occurred;
  - (H) whether the ward has regular medical care; and
  - (I) the ward's treatment or evaluation by any of the following persons during the past year, including the person's name and a description of the treatment:
    - (i) a physician;
    - (ii) a psychiatrist, psychologist, or other mental health care provider;
    - (iii) a dentist;
    - (iv) a social or other caseworker; or
    - (v) any other individual who provided treatment;
- (5) a description of the ward's activities during the past year, including recreational, educational, social, and occupational activities, or a statement that no activities were available or that the ward was unable or refused to participate in activities;
- (6) the guardian's evaluation of:
  - (A) the ward's living arrangements as excellent, average, or below average, including an explanation if the conditions are below average;
  - (B) whether the ward is content or unhappy with the ward's living arrangements; and
  - (C) unmet needs of the ward;

(7) a statement indicating whether the guardian's power should be increased, decreased, or unaltered, including an explanation if a change is recommended;

(8) a statement indicating that the guardian has paid the bond premium for the next reporting period;

(9) if the guardian is a private professional guardian, a guardianship program, or the Health and Human Services Commission [~~Department of Aging and Disability Services~~], whether the guardian or an individual certified under Subchapter C, Chapter 155, Government Code, who is providing guardianship services to the ward and who is filing the affidavit on the guardian's behalf, is or has been the subject of an investigation conducted by the Judicial Branch [~~Guardianship~~] Certification Commission [~~Board~~] during the preceding year; and

(10) any additional information the guardian desires to share with the court regarding the ward, including:

(A) whether the guardian has filed for emergency detention of the ward under Subchapter A, Chapter 573, Health and Safety Code; and

(B) if applicable, the number of times the guardian has filed for emergency detention and the dates of the applications for emergency detention.

SECTION 55. Section 1251.005, Estates Code, is amended to read as follows:

Sec. 1251.005. CITATION AND NOTICE OF APPLICATION. (a) On the filing of an application for temporary guardianship, the court clerk shall issue:

(1) citation [~~notice~~] to be served on:

(A) [~~(+)~~] the proposed ward; and

(B) [~~(2)~~] ~~the proposed ward's appointed attorney; and~~

[~~(3)~~] the proposed temporary guardian named in the application, if that person is not the applicant; and

(2) notice to be served on the proposed ward's appointed attorney.

(b) The citation or notice issued as provided by Subsection (a) must describe:

(1) the rights of the parties; and

(2) the date, time, place, purpose, and possible consequences of a hearing on the application.

(b-1) The citation issued as provided by Subsection (a) must contain a statement regarding the authority of a person under Section 1051.252 who is interested in the estate or welfare of a proposed ward or, if a guardianship is created, the ward to file with the county clerk a written request to be notified of all, or any specified, motions, applications, or pleadings filed with respect to the temporary guardianship proceeding by any person or by a person specifically designated in the request.

(c) A copy of the application must be attached to the citation or notice.

SECTION 56. Sections 1251.101(a), (b), and (d), Estates Code, are amended to read as follows:

(a) When the temporary guardian files the oath or declaration prescribed by Section 1105.051 and the bond required under this title, the court order appointing the temporary guardian takes effect without the necessity for issuance of letters of guardianship.

(b) The clerk shall note compliance with the oath or declaration and bond requirements by the appointed temporary guardian on a certificate attached to the order.

(d) The clerk may not issue certified copies of the order until the oath or declaration and bond requirements are satisfied.

SECTION 57. The heading to Section 1251.153, Estates Code, is amended to read as follows:

Sec. 1251.153. DELIVERY OF ESTATE, FILING OF FINAL REPORT, AND[;] DISCHARGE OF TEMPORARY GUARDIAN.

SECTION 58. Section 1251.153, Estates Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) At the expiration of a temporary guardianship of the person, the temporary guardian shall file with the court clerk a final report that:

(1) if the ward is living, describes each reason the temporary guardianship of the person expired, including a statement of facts regarding whether the temporary guardianship expired because:

(A) the ward was found by the court to have full capacity, or sufficient capacity with supports and services, to care for himself or herself;

(B) alternatives to guardianship have been established to meet the needs of the ward; or

(C) a permanent guardian appointed by the court has qualified to serve as the ward's guardian; or

(2) if the ward is deceased, includes the date and place of death, if known, in the form and manner of the report required to be filed by a guardian of the person under Section 1163.103.

(b) On proof of delivery under Subsection (a) and approval by the court of a final report filed with the court clerk under Subsection (a-1), as applicable:

(1) the temporary guardian shall be discharged; and

(2) the sureties on the temporary guardian's bond shall be released as to future liability.

SECTION 59. Section 1253.001, Estates Code, is amended to read as follows:

Sec. 1253.001. APPLICATION TO TRANSFER GUARDIANSHIP TO FOREIGN JURISDICTION. On application of the guardian or on the court's own motion, a ~~[A guardian of the person or estate may apply to the]~~ court that has jurisdiction over the guardianship may ~~[to]~~ transfer the guardianship to a court in a foreign jurisdiction to which the ward has permanently moved.

SECTION 60. Subchapter B, Chapter 1301, Estates Code, is amended by adding Section 1301.0511 to read as follows:

Sec. 1301.0511. NOTICE REQUIRED FOR APPLICATION FOR CREATION OF TRUST; CITATION OF APPLICANT NOT REQUIRED. (a) On the filing of an application for creation of a management trust and except as provided by Subsection (d), notice shall be issued and served in the manner provided by Subchapter C, Chapter 1051, for the issuance and service of notice on the filing of an application for guardianship.

(b) It is not necessary to serve a citation on a person who files an application for the creation of a management trust under this subchapter or for that person to waive the issuance and personal service of citation.

(c) If the person for whom an application for creation of a management trust is filed is a ward, the sheriff or other officer, in addition to serving the persons described by Section 1051.103, shall personally serve each guardian of the ward with citation to appear and answer the application.

(d) Notice under this section is not required if a proceeding for the appointment of a guardian is pending for the person for whom an application for creation of a management trust is filed.

SECTION 61. Section 1301.101(a), Estates Code, is amended to read as follows:

(a) Except as provided by Subsection (c), a management trust created for a ward or incapacitated person must provide that:

(1) the ward or incapacitated person is the sole beneficiary of the trust;

(2) the trustee may disburse an amount of the trust's principal or income as the trustee determines is necessary to spend for the health, education, maintenance, or support of the person for whom the trust is created;

(3) the trust income that the trustee does not disburse under Subdivision (2) must be added to the trust principal;

(4) a trustee that is a corporate fiduciary serves without giving a bond; ~~and~~

(5) subject to the court's approval and Subsection (b), a trustee is entitled to receive reasonable compensation for services the trustee provides to the person for whom the trust is created as the person's trustee; and

(6) the trust terminates:

(A) except as provided by Paragraph (B), if the person for whom the trust is created is a minor:

(i) on the earlier of:

(a) the person's death; or

(b) the person's 18th birthday; or

(ii) on the date provided by court order, which may not be later than the person's 25th birthday;

(B) if the person for whom the trust is created is a minor and is also incapacitated for a reason other than being a minor:

(i) on the person's death; or

(ii) when the person regains capacity; or

(C) if the person for whom the trust is created is not a minor:

(i) according to the terms of the trust;

(ii) on the date the court determines that continuing the trust is no longer in the person's best interests, subject to Section 1301.202(c); or

(iii) on the person's death.

SECTION 62. Section 1301.154(b), Estates Code, is amended to read as follows:

(b) The trustee of a management trust created for a ward shall provide a copy of the annual account to each ~~the~~ guardian of the ward ~~ward's estate or person~~.

SECTION 63. Section 1301.203, Estates Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), if [H] the person for whom a management trust is created is a minor, the trust terminates on:

(1) the earlier of:

(A) the person's death; or

(B) the person's 18th birthday; or

(2) the date provided by court order, which may not be later than the person's 25th birthday.

(a-1) If the person for whom a management trust is created is a minor and is also incapacitated for a reason other than being a minor, the trust terminates:

(1) on the person's death; or

(2) when the person regains capacity.

SECTION 64. Sections 1355.002(b), (c), (d), (e), and (f), Estates Code, are amended to read as follows:

(b) This section applies only to a nonresident creditor who is:

(1) a nonresident minor and has a nonresident guardian of the estate appointed by a foreign court;

(2) [s] a nonresident person who is adjudged by a foreign court [of competent jurisdiction] to be incapacitated and has a nonresident guardian of the estate appointed by that court;[s] or

(3) the nonresident former ward of a guardianship terminated under Chapter 1204 who has no legal guardian qualified in this state.

(c) A debtor in this state who owes money to a nonresident creditor to whom this section applies may pay the money:

(1) to the creditor's guardian of the estate qualified in the domiciliary jurisdiction; or

(2) to the county clerk of:

(A) any county in this state in which real property owned by the creditor is located; or

(B) if the creditor is not known to own real property in this state, the county in which the debtor resides.

(d) A payment made under this section is for the nonresident creditor's account and for the nonresident creditor's use and benefit.

(e) A receipt for payment signed by the county clerk is binding on the nonresident creditor as of the date and to the extent of payment if the receipt states:

(1) the creditor's name; and

(2) the creditor's post office address, if the address is known.

(f) A county clerk who receives a payment under Subsection (c) for a nonresident creditor shall handle the money in the same manner as provided for a payment to the account of a resident creditor under Sections 1355.001, 1355.051, 1355.052, 1355.102, 1355.103, and 1355.104. Those sections apply to the handling and disposition of money or any increase, dividend, or income paid to the clerk for the use, benefit, and account of the nonresident creditor to whom this section applies.

SECTION 65. Section 1355.105, Estates Code, is amended to read as follows:

Sec. 1355.105. WITHDRAWAL OF MONEY BY CREDITOR OR CREDITOR'S HEIR, ~~[OR]~~ REPRESENTATIVE, OR GUARDIAN. (a) On presentation to the court clerk of an order of a county or probate court of the county in which the money is held, money that is not withdrawn by an authorized person as provided by this chapter may be withdrawn by:

- (1) the creditor, after termination of the creditor's disability;
- (2) a subsequent personal representative of the creditor; ~~[or]~~
- (3) the creditor's heirs; or
- (4) a nonresident guardian of the estate appointed by a foreign court for a

creditor who is:

(A) a nonresident minor; or

(B) a nonresident person who is adjudged to be incapacitated.

(b) Except as provided by Subsection (b-1), a ~~[A]~~ withdrawal under Subsection (a) may be made at any time and without a special bond for that purpose.

(b-1) A court may require a nonresident guardian of the estate of a creditor who is a nonresident minor or nonresident incapacitated person as described by Subsection (a)(4) to provide proof that the nonresident guardian of the estate gave an adequate bond in the foreign jurisdiction if the court determines that it is in the nonresident minor's or nonresident incapacitated person's best interest.

(c) The order presented under Subsection (a) must direct the court clerk to deliver the money to:

(1) the creditor;

(2) ~~[r]~~ the creditor's personal representative;

(3) ~~[or]~~ the creditor's heirs named in the order; or

(4) if the creditor is a nonresident minor or nonresident person who is adjudged to be incapacitated, the creditor's nonresident guardian of the estate.

(d) Before the court may issue an order under this section, the person's identity and credentials must be proved to the court's satisfaction. For purposes of this subsection, a nonresident guardian of the estate described by Subsection (c)(4) must present to the court exemplified copies of the order of a foreign court appointing the guardian and current letters of guardianship issued in the foreign jurisdiction.

SECTION 66. Section 25.0006, Government Code, is amended by amending Subsection (a) and adding Subsection (a-5) to read as follows:

(a) Notwithstanding any other law except Subsection (a-4), Subsections (a-1), (a-2), ~~[and]~~ (a-3), and (a-5) control over a specific provision for a particular court or county that attempts to create a requirement for a bond or insurance that conflicts with those subsections.

(a-5) A bond executed under Subsection (a-1) by the judge elected or appointed to a statutory county court or an insurance policy obtained under Subsection (a-3) shall provide the same coverage to a visiting judge assigned to the court or associate judge appointed to serve the court as the bond or insurance policy provides to the judge elected or appointed to the court.

SECTION 67. Section 25.00231, Government Code, is amended by adding Subsection (f) to read as follows:



(f) Notwithstanding Subsection (e), a bond executed under Subsection (b) by the judge elected or appointed to a statutory probate court or an insurance policy obtained under Subsection (c) shall provide the same coverage to a visiting judge assigned to the court or to an associate judge appointed by the court as the bond or insurance policy provides to the judge elected or appointed to the court.

SECTION 68. Section 25.0027, Government Code, is amended to read as follows:

Sec. 25.0027. JURIES; PRACTICE AND PROCEDURE. The drawing of jury panels, selection of jurors, and practice in the statutory probate courts must conform to that prescribed by law for county courts, except that practice, procedure, rules of evidence, issuance of process and writs, juries, including the number of jurors provided the parties to a proceeding may agree to try a particular case with fewer than 12 jurors, and all other matters pertaining to the conduct of trials and hearings in the statutory probate courts involving those matters of concurrent jurisdiction with district courts are governed by the laws and rules pertaining to district courts.

SECTION 69. Section 74.141, Government Code, is amended to read as follows:

Sec. 74.141. DEFENSE OF JUDGES. The attorney general shall defend a state district judge, a presiding judge of an administrative region, the presiding judge of the statutory probate courts, a visiting judge assigned to hear a guardianship or probate matter by the presiding judge of the statutory probate courts, or an active, retired, or former judge assigned under this chapter in any action or suit in any court in which the judge is a defendant because of the judge's [his] office or capacity as judge if the judge requests the attorney general's assistance in the defense of the suit.

SECTION 70. Section 81.114, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The state bar shall provide a course of instruction for attorneys who represent any person's interests [parties] in guardianship cases or who serve as court-appointed guardians.

(e) The course of instruction described by this section must be low-cost and available to persons throughout this state, including on the Internet provided through the state bar.

SECTION 71. Section 155.205(b), Government Code, is amended to read as follows:

(b) The commission shall obtain:

(1) fingerprint-based criminal history record information of a proposed guardian [an applicant] if:

(A) the liquid assets of the estate of a ward exceed \$50,000; or

(B) the proposed guardian is not a resident of this state; or

(2) name-based criminal history record information of a proposed guardian, including any criminal history record information under the current name and all former names of the proposed guardian, [an applicant] if:

(A) the liquid assets of the estate of a ward are \$50,000 or less; and

(B) the proposed guardian is a resident of this state.

SECTION 72. (a) Except as otherwise provided by this Act, the changes in law made by this Act apply to:

(1) a guardianship created before, on, or after the effective date of this Act; and

(2) an application for a guardianship pending on, or filed on or after, the effective date of this Act.

(b) Section 202.054, Estates Code, as amended by this Act, applies only to a proceeding to declare heirship commenced on or after the effective date of this Act. A proceeding to declare heirship commenced before that date is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

(c) Section 452.006(c), Estates Code, as added by this Act, applies only to a temporary administrator appointed on or after the effective date of this Act. A temporary administrator appointed before the effective date of this Act is governed by the law in effect on the date the administrator was appointed, and the former law is continued in effect for that purpose.

(d) Section 503.002, Estates Code, as amended by this Act, applies only to a copy of a testamentary instrument or other document filed for recording on or after the effective date of this Act. A copy of a testamentary instrument or other document filed before the effective date of this Act is governed by the law in effect on the date the instrument or document was filed, and the former law is continued in effect for that purpose.

(e) The changes in law made by this Act to Section 1021.001, Estates Code, apply only to an action filed on or after the effective date of this Act. An action filed before the effective date of this Act is governed by the law in effect on the date the action was filed, and the former law is continued in effect for that purpose.

(f) Sections 1101.001 and 1251.005, Estates Code, as amended by this Act, apply only to an application for the appointment of a guardian or temporary guardian filed on or after the effective date of this Act. An application for the appointment of a guardian or temporary guardian filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(g) Sections 1054.201 and 1101.153, Estates Code, as amended by this Act, and Section 155.205, Government Code, as amended by this Act, apply only to a guardianship proceeding commenced on or after the effective date of this Act. A guardianship proceeding commenced before the effective date of this Act is governed by the law applicable to the proceeding immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(h) The changes in law made by this Act to Section 1251.101, Estates Code, and Chapter 1105, Estates Code, apply only to the qualification of a guardian that occurs on or after the effective date of this Act. The qualification of a guardian that occurs before the effective date of this Act is governed by the law in effect on the date the guardian qualifies to serve, and the former law is continued in effect for that purpose.

(i) Section 1301.0511, Estates Code, as added by this Act, applies only to an application for creation of a management trust filed on or after the effective date of this Act. An application for creation of a management trust filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(j) The changes in law made by this Act to Sections 1301.101 and 1301.203, Estates Code, apply only to an application for the creation or modification of a management trust filed on or after the effective date of this Act. An application for the creation or modification of a management trust filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(k) The changes in law made by this Act to Section 1355.105, Estates Code, apply only to an application for an order for the delivery of money that is filed on or after the effective date of this Act. An application for an order for the delivery of money that is filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(l) The changes in law made by this Act to Sections 25.0006 and 25.00231, Government Code, apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2022. An insurance policy delivered, issued for delivery, or renewed before January 1, 2022, 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.

(m) Section 74.141, Government Code, as amended by this Act, applies to a cause of action filed on or after the effective date of this Act. A cause of action filed 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 73. This Act takes effect September 1, 2021.

The Conference Committee Report on **SB 626** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1281

Senator Schwertner submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 1281** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SCHWERTNER  
HANCOCK  
HUFFMAN  
NICHOLS

WILSON  
CANALES  
MIDDLETON  
MOODY

REYNOLDS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1281** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1869**

Senator Bettencourt submitted the following Conference Committee Report:

Austin, Texas

May 28, 2021

Honorable Dan Patrick

President of the Senate

Honorable Dade Phelan

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 1869** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

BETTENCOURT

BURROWS

HALL

CYRIER

KOLKHORST

MEYER

LUCIO

MIDDLETON

SPRINGER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1869** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 800**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas

May 27, 2021

Honorable Dan Patrick

President of the Senate

Honorable Dade Phelan

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 800** 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

PADDIE

KOLKHORST  
 NICHOLS  
 CAMPBELL  
 HUFFMAN  
 On the part of the Senate

HOWARD  
 SLAWSON  
 OLIVERSON  
 HERNANDEZ  
 On the part of the House

A BILL TO BE ENTITLED  
 AN ACT

relating to certain required reports or information received or prepared by state agencies and other governmental entities.

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

SECTION 1. Articles 2.305(b) and (d), Code of Criminal Procedure, are amended to read as follows:

(b) An entity described by Subsection (a) that investigates the alleged commission of an offense under Chapter 20A, Penal Code, or the alleged commission of an offense under Chapter 43, Penal Code, which may involve human trafficking, shall submit to the attorney general a report in the manner and form prescribed by the attorney general containing the following information:

(1) the offense being investigated, including a brief description of the alleged prohibited conduct;

(2) regarding each person suspected of committing the offense and each victim of the offense:

(A) the person's:

(i) age;

(ii) gender; and

(iii) race or ethnicity, as defined by Article 2.132; and

(B) the case number associated with the offense and the person suspected of committing the offense;

(3) the date, time, and location of the alleged offense;

(4) the type of human trafficking involved, including:

(A) forced labor or services, as defined by Section 20A.01, Penal Code;

(B) causing the victim by force, fraud, or coercion to engage in prohibited conduct involving one or more sexual activities, including conduct described by Section 20A.02(a)(3), Penal Code; or

(C) causing a child victim by any means to engage in, or become the victim of, prohibited conduct involving one or more sexual activities, including conduct described by Section 20A.02(a)(7), Penal Code;

(5) if available, information regarding any victims' service organization or program to which the victim was referred as part of the investigation; and

(6) the disposition of the investigation, if any, regardless of the manner of disposition.

(d) The attorney general may [~~shall~~] enter into a contract with a university that provides for the university's assistance in the collection and analysis of information received under this article.

SECTION 2. Section 71.0353, Government Code, is amended to read as follows:

Sec. 71.0353. TRAFFICKING OF PERSONS INFORMATION. (a) As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System, a district court or county court at law shall report the number of cases filed for the following offenses:

- (1) trafficking of persons under Section 20A.02, Penal Code;
- (2) prostitution under Section 43.02, Penal Code; and
- (3) compelling prostitution under Section 43.05, Penal Code.

(b) A district or county court at law shall provide a copy of the report required under Subsection (a) to the attorney general.

SECTION 3. Sections 402.034(g) and (h), Government Code, are amended to read as follows:

(g) Not later than December 1 of each even-numbered year, ~~[beginning with the year following the year the council submits a strategic plan to the legislature under Subsection (e)(2),]~~ the council shall submit to the legislature a ~~[an annual]~~ report detailing the progress of the strategic plan's implementation. The ~~[annual]~~ report must include:

- (1) a description of the level of participation in the strategic plan by each agency represented on the council and how the implementation of the strategic plan serves to coordinate the programs and services described by Subsection (f)(1) and achieve the goals described by Subsection (f)(2)(B); and

- (2) an update of the inventory of programs and services described by Subsection (f)(1) and how each program or service furthers the goals of the strategic plan.

(h) The office of the attorney general shall make available on the office's Internet website the strategic plan and the report ~~[annual reports]~~ required under Subsection (g).

SECTION 4. Sections 403.0147(b) and (c), Government Code, are amended to read as follows:

(b) Not later than December 31 of each even-numbered year, the comptroller shall submit a report to the legislature that identifies for each state agency:

- (1) each program the state agency is statutorily required to implement for which no appropriation was made for the preceding state fiscal year, along with a citation to the law imposing the requirement; and

- (2) the amount and source of money the state agency spent, if any, to implement any portion of the program described by Subdivision (1) during the preceding state fiscal year.

(c) A state agency shall provide to the comptroller not later than September 30 of each even-numbered year information necessary for the comptroller to prepare the report required by this section. The comptroller may prescribe the form and content of the information a state agency must provide.

SECTION 5. Section 404.094(a), Government Code, is amended to read as follows:

(a) Fees, fines, penalties, taxes, charges, gifts, grants, donations, and other funds collected or received by a state agency under law shall be deposited in the treasury, credited to a special fund or funds, and subject to appropriation only for the purposes for which they are otherwise authorized to be expended or disbursed. A deposit shall

be made at the earliest possible time that the treasury can accept those funds, but not later than the third business day after the date of receipt. However, if an agency determines that for seasonal or other extraordinary reasons deposits cannot be made by the third business day after the date of receipt, the agency shall provide written notice of the determination to the state auditor and comptroller with an explanation of the circumstances that require the delay. If the state auditor finds that an agency has not complied with this subsection, the state auditor shall make an estimate of any resulting financial loss to the state, taking into consideration compliance costs that would have been additionally incurred by the agency, and report the amount on the state auditor's Internet website ~~[to the legislative audit committee, the governor, and the comptroller].~~

SECTION 6. Section 531.02492(b), Government Code, is amended to read as follows:

(b) The commission shall electronically publish on the commission's Internet website a biennial report and, on or before the date the report is due, shall notify the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, ~~[the Legislative Budget Board,]~~ and the appropriate legislative committees that the report is available on the commission's Internet website. The report must address the efforts of the health and human services agencies to provide health and human services to children younger than six years of age. The report may contain recommendations by the commission to better coordinate state agency programs relating to the delivery of health and human services to children younger than six years of age and may propose joint agency collaborative programs.

SECTION 7. Section 531.0998, Government Code, is amended by adding Subsection (g) to read as follows:

(g) The report may be consolidated with any other report relating to the same subject matter the commission is required to submit under other law.

SECTION 8. Section 531.108(e), Government Code, is amended to read as follows:

(e) Not later than October 1 of each year, the ~~[The]~~ commission shall submit to the governor and Legislative Budget Board an annual report on the results of computerized matching of commission information with information from neighboring states, if any, and information from the Texas Department of Criminal Justice. The report may be consolidated with any other report relating to the same subject matter the commission is required to submit under other law.

SECTION 9. Section 2054.077(b), Government Code, is amended to read as follows:

(b) The information security officer of a state agency shall prepare or have prepared a report, including an executive summary of the findings of the biennial report, not later than June 1 ~~[October 15]~~ of each even-numbered year, assessing the extent to which a computer, a computer program, a computer network, a computer system, a printer, an interface to a computer system, including mobile and peripheral devices, computer software, or data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm, including the extent to which the agency's or contractor's electronically stored information is vulnerable to alteration, damage, erasure, or inappropriate use.

SECTION 10. Section 2054.515(b), Government Code, is amended to read as follows:

(b) Not later than December 1 of the year in which a state agency conducts the assessment under Subsection (a) or the 60th day after the date the agency completes the assessment, whichever occurs first, the agency shall report the results of the assessment to:

- (1) the department; and
- (2) on request, the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 11. Section 2054.516(a), Government Code, is amended to read as follows:

(a) Each state agency implementing an Internet website or mobile application that processes any sensitive personal or personally identifiable information or confidential information must:

- (1) submit a biennial data security plan to the department not later than June 1 [~~October 15~~] of each even-numbered year to establish planned beta testing for the website or application; and
- (2) subject the website or application to a vulnerability and penetration test and address any vulnerability identified in the test.

SECTION 12. Section 2054.5192(e), Government Code, is amended to read as follows:

(e) A contractor required to complete a cybersecurity training program under this section shall verify completion of the program to the contracting state agency. The person who oversees contract management for the agency shall:

- (1) not later than August 31 of each year, report the contractor's completion to the department; and
- (2) periodically review agency contracts to ensure compliance with this section.

SECTION 13. The heading to Section 2310.052, Government Code, is amended to read as follows:

Sec. 2310.052. EVALUATION[~~REPORT~~].

SECTION 14. Section 103.013(f), Health and Safety Code, is amended to read as follows:

(f) Not later than November 1 of each even-numbered year, each state agency affected by the state plan, other than a state agency represented on the council, shall report to the council, the Legislative Budget Board, and the Governor's Office of Budget and Planning:

- (1) information determined under Subsection (e); and
- (2) each deviation from the council's proposed plan, including an explanation for the deviation.

SECTION 15. Sections 533A.006(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The executive commissioner shall submit a report to the Texas Medical Board not later than 30 days after the last day of a month during which any allegation is received by the commission that a physician employed by or under contract with the commission in relation to services provided under this title has committed an



action that constitutes a ground for the denial or revocation of the physician's license under Section 164.051, Occupations Code. The report must be made in the manner provided by Section 154.051, Occupations Code.

(b) The department shall provide to the Texas Medical Board a printed and electronic copy of any report or finding relating to an investigation of an allegation reported to that board.

SECTION 16. Section 534.068(f), Health and Safety Code, is amended to read as follows:

(f) The department shall annually submit to the governor[~~Legislative Budget Board,~~] and Legislative Audit Committee a summary of the significant findings identified during the department's reviews of fiscal audit activities.

SECTION 17. Section 578.008, Health and Safety Code, is amended to read as follows:

Sec. 578.008. USE OF INFORMATION[~~REPORT~~]. ~~(a)~~ The department shall use the information received under Sections 578.006 and 578.007 to analyze, audit, and monitor the use of electroconvulsive therapy, psychosurgery, pre-frontal sonic sound treatment, or any other convulsive or coma-producing therapy administered to treat mental illness.

~~(b) The department shall file annually with the governor and the presiding officer of each house of the legislature a written report summarizing by facility the information received under Sections 578.006 and 578.007. If the therapy is administered by a private physician on an outpatient basis, the report must include that information but may not identify the physician. The department may not directly or indirectly identify in a report issued under this section a patient who received the therapy.]~~

SECTION 18. Section 22.0292(d), Human Resources Code, is amended to read as follows:

(d) Not later than October 1 of each year, the ~~The~~ commission shall submit to the governor and the Legislative Budget Board an annual report on the operation and success of the information matching system required by this section. The report may be consolidated with any other report relating to the same subject matter the commission is required to submit under other law.

SECTION 19. Section 101A.107, Human Resources Code, is amended to read as follows:

Sec. 101A.107. REPORT ON UNIT COSTS. The department shall file with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy a report that clearly identifies in a state fiscal year the unit cost of each service, other than services related to community service volunteering and subsidized employment services, provided by an area agency on aging. The report must be filed annually ~~twice each year~~ on or before the date specified by the Legislative Budget Board. The report must be in the form required by the Legislative Budget Board.

SECTION 20. Section 161.079(g), Human Resources Code, is amended to read as follows:

(g) The department shall analyze the data reported under Subsection (f) and collected from the form under Subsection (d) ~~[and shall submit a report not later than December 1 of each even-numbered year to the governor and the Legislative Budget Board that summarizes the data analysis].~~

SECTION 21. Section 1305.502(a), Insurance Code, is amended to read as follows:

(a) Not later than December 1 of each even-numbered year, the ~~[The]~~ group shall develop and issue an ~~[annual]~~ informational report card that identifies and compares, on an objective basis, the quality, costs, health care provider availability, and other analogous factors of workers' compensation health care networks operating under the workers' compensation system of this state with each other and with medical care provided outside of networks.

SECTION 22. The heading to Section 413.0515, Labor Code, is amended to read as follows:

Sec. 413.0515. REPORTS OF ~~[PHYSICIAN AND]~~ CHIROPRACTOR VIOLATIONS.

SECTION 23. Sections 504.053(c) and (d), Labor Code, are amended to read as follows:

(c) If the political subdivision or pool provides medical benefits in the manner authorized under Subsection (b)(2), the following do not apply:

(1) Sections 408.004 and 408.0041, unless use of a required medical examination or designated doctor is necessary to resolve an issue relating to the entitlement to or amount of income benefits under this title;

(2) Subchapter B, Chapter 408, except for Section 408.021;

(3) Chapter 413, except for Section 413.042; and

(4) Chapter 1305, Insurance Code, except for Sections ~~[1305.501,]~~ 1305.502~~[,]~~ and 1305.503.

(d) If the political subdivision or pool provides medical benefits in the manner authorized under Subsection (b)(2), the following standards apply:

(1) the political subdivision or pool must ensure that workers' compensation medical benefits are reasonably available to all injured workers of the political subdivision or the injured workers of the members of the pool within a designed service area;

(2) the political subdivision or pool must ensure that all necessary health care services are provided in a manner that will ensure the availability of and accessibility to adequate health care providers, specialty care, and facilities;

(3) the political subdivision or pool must have an internal review process for resolving complaints relating to the manner of providing medical benefits, including an appeal to the governing body or its designee and appeal to an independent review organization;

(4) the political subdivision or pool must establish reasonable procedures for the transition of injured workers to contract providers and for the continuity of treatment, including notice of impending termination of providers and a current list of contract providers;

(5) the political subdivision or pool shall provide for emergency care if an injured worker cannot reasonably reach a contract provider and the care is for medical screening or other evaluation that is necessary to determine whether a medical emergency condition exists, necessary emergency care services including treatment and stabilization, and services originating in a hospital emergency facility following treatment or stabilization of an emergency medical condition;

(6) prospective or concurrent review of the medical necessity and appropriateness of health care services must comply with Article 21.58A, Insurance Code;

(7) the political subdivision or pool shall continue to report data to the appropriate agency as required by Title 5 of this code and Chapter 1305, Insurance Code; and

(8) a political subdivision or pool is subject to the requirements under Sections ~~[1305.501,]~~ 1305.502~~;~~ and 1305.503, Insurance Code.

SECTION 24. Section 1001.023(b), Transportation Code, is amended to read as follows:

(b) The chair shall:

(1) preside over board meetings, make rulings on motions and points of order, and determine the order of business;

(2) represent the department in dealing with the governor;

(3) report to the governor on the state of affairs of the department at least quarterly;

(4) report to the board the governor's suggestions for department operations;

(5) report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise;

(6) periodically review the department's organizational structure and submit recommendations for structural changes to the governor and~~;~~ the board~~, and the Legislative Budget Board~~;

(7) designate at least one employee of the department as a civil rights officer of the department and receive regular reports from the officer or officers on the department's efforts to comply with civil rights legislation and administrative rules;

(8) create subcommittees, appoint board members to subcommittees, and receive the reports of subcommittees to the board as a whole;

(9) appoint a member of the board to act in the absence of the chair and vice chair; and

(10) serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

SECTION 25. The following provisions are repealed:

(1) Section 201.0227(d-1), Agriculture Code;

(2) Section 447.010(j), Government Code;

(3) Chapter 2061, Government Code;

(4) Section 2165.303(b), Government Code;

(5) Section 2310.052(b), Government Code;

(6) Section 104.026(c), Health and Safety Code;

(7) Section 161.502(d), Health and Safety Code;

- (8) Section 533A.062(e), Health and Safety Code;
- (9) Section 22.015, Human Resources Code;
- (10) Section 1305.501, Insurance Code;
- (11) Section 2053.012, Insurance Code;
- (12) Sections 405.0025(b) and (c), Labor Code;
- (13) Section 408.030, Labor Code;
- (14) Section 413.0515(a), Labor Code;
- (15) Section 203.154(a), Occupations Code;
- (16) Section 452.159, Occupations Code;
- (17) Section 223.042(f), Transportation Code; and
- (18) Section 228.012(c), Transportation Code.

SECTION 26. This Act takes effect September 1, 2021.

The Conference Committee Report on **SB 800** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 49

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 49** 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.

ZAFFIRINI  
BIRDWELL  
HUFFMAN  
HUGHES  
WHITMIRE

On the part of the Senate

MURR  
RODRIGUEZ  
BURNS  
MOODY  
BAILES

On the part of the House

### A BILL TO BE ENTITLED AN ACT

relating to procedures regarding defendants who are or may be persons with a mental illness or intellectual disability.

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

SECTION 1. Article 16.22(a)(2), Code of Criminal Procedure, is amended to read as follows:

(2) The magistrate is not required to order the interview and collection of other information under Subdivision (1) if the defendant is no longer in custody or if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability by the service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another mental health or intellectual and developmental disability expert described by Subdivision (1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

SECTION 2. Article 16.22, Code of Criminal Procedure, is amended by amending Subsection (b-1) and adding Subsection (b-2) to read as follows:

(b-1) The magistrate shall provide copies of the written report to:

(1) the defense counsel;

(2) [;] the attorney representing the state;

(3) [~~, and~~] the trial court;

(4) the sheriff or other person responsible for the defendant's medical records while the defendant is confined in county jail; and

(5) as applicable:

(A) any personal bond office established under Article 17.42 for the county in which the defendant is being confined; or

(B) the director of the office or department that is responsible for supervising the defendant while the defendant is released on bail and receiving mental health or intellectual and developmental disability services as a condition of bail.

(b-2) The written report must include a description of the procedures used in the interview and collection of other information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability;

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) any appropriate or recommended treatment or service.

SECTION 3. Article 17.04, Code of Criminal Procedure, is amended to read as follows:

Art. 17.04. REQUISITES OF A PERSONAL BOND. (a) A personal bond is sufficient if it includes the requisites of a bail bond as set out in Article 17.08, except that no sureties are required. In addition, a personal bond shall contain:

(1) the defendant's name, address, and place of employment;

(2) identification information, including the defendant's:

(A) date and place of birth;

(B) height, weight, and color of hair and eyes;

(C) driver's license number and state of issuance, if any; and

(D) nearest relative's name and address, if any; and

(3) except as provided by Subsection (b), the following oath sworn and signed by the defendant:

"I swear that I will appear before (the court or magistrate) at (address, city, county) Texas, on the (date), at the hour of (time, a.m. or p.m.) or upon notice by the court, or pay to the court the principal sum of (amount) plus all necessary and reasonable expenses incurred in any arrest for failure to appear."

(b) A personal bond is not required to contain the oath described by Subsection (a)(3) if:

(1) the magistrate makes a determination under Article 16.22 that the defendant has a mental illness or is a person with an intellectual disability, including by using the results of a previous determination under that article;

(2) the defendant is released on personal bond under Article 17.032; or

(3) the defendant is found incompetent to stand trial in accordance with Chapter 46B.

SECTION 4. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.0735 to read as follows:

Art. 46B.0735. DATE COMPETENCY RESTORATION PERIOD BEGINS.

The initial restoration period for a defendant under Article 46B.0711, 46B.072, or 46B.073 begins on the later of:

(1) the date the defendant is:

(A) ordered to participate in an outpatient competency restoration program; or

(B) committed to a mental health facility, residential care facility, or jail-based competency restoration program; or

(2) the date competency restoration services actually begin.

SECTION 5. Article 46B.080, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) An extension under this article begins on the later of:

(1) the date the court enters the order under Subsection (a); or

(2) the date competency restoration services actually begin pursuant to the order entered under Subsection (a).

SECTION 6. Article 46B.090, Code of Criminal Procedure, is amended by amending Subsections (a-1), (b), (c), (f), (g), (i), (j), (k), (l), (m), and (n) and adding Subsections (f-1), (l-1), (l-2), and (o) to read as follows:

(a-1) If the legislature appropriates to the commission ~~[department]~~ the funding necessary for the commission ~~[department]~~ to operate a jail-based restoration of competency pilot program as described by this article, the commission ~~[department]~~ shall develop and implement the pilot program in one or two counties in this state that choose to participate in the pilot program. In developing the pilot program, the commission ~~[department]~~ shall coordinate and allow for input from each participating county.

(b) The commission ~~[department]~~ shall contract with a provider of jail-based competency restoration services to provide services under the pilot program if the commission ~~[department]~~ develops a pilot program under this article.

(c) ~~The executive [Not later than November 1, 2013, the] commissioner [of the department] shall adopt rules as necessary to implement the pilot program. [In adopting rules under this article, the commissioner shall specify the types of information the department must collect during the operation of the pilot program for use in evaluating the outcome of the pilot program.]~~

(f) To contract with the commission [department] under Subsection (b), a provider of jail-based competency restoration services must ~~[demonstrate to the department that]:~~

(1) be ~~[the provider];~~

~~[(A) has previously provided jail-based competency restoration services for one or more years; or~~

~~[(B) is] a local mental health authority or local behavioral health authority that is in good standing with the commission, which may include an authority that is in good standing with the commission and subcontracts with a provider of jail-based competency restoration services [that has previously provided competency restoration services]; and~~

(2) contract with a county or counties to develop and implement a jail-based competency restoration program.

(f-1) The [the] provider's jail-based competency restoration program must:

(1) through the use of a multidisciplinary treatment team, provide jail-based competency restoration services that are:

~~(A) [uses a multidisciplinary treatment team to provide clinical treatment that is:~~

~~[(i)] directed toward the specific objective of restoring the defendant's competency to stand trial; and~~

~~(B) [(ii)] similar to other [the clinical treatment provided as part of a] competency restoration programs [program at an inpatient mental health facility];~~

~~(2) employ [(B) employs] or contract [contracts] for the services of at least one psychiatrist;~~

~~(3) provide jail-based competency restoration services through licensed or qualified mental health professionals;~~

~~(4) provide [and (C) provides] weekly competency restoration [treatment] hours commensurate to the [treatment] hours provided as part of other [a] competency restoration programs [program at an inpatient mental health facility];~~

~~(5) operate in the jail in a designated space that is separate from the space used for the general population of the jail;~~

~~(6) ensure coordination of general health care;~~

~~(7) provide mental health treatment and substance use disorder treatment to defendants, as necessary, for competency restoration; and~~

~~(8) supply clinically appropriate psychoactive medications for purposes of administering court-ordered medication to defendants as applicable and in accordance with Article 46B.086 of this code or Section 574.106, Health and Safety Code~~

~~[(3) the provider is certified by a nationwide nonprofit organization that accredits health care organizations and programs, such as the Joint Commission on Health Care Staffing Services, or the provider is a local mental health authority in good standing with the department; and~~

~~[(4) the provider has a demonstrated history of successful jail-based competency restoration outcomes or, if the provider is a local mental health authority, a demonstrated history of successful competency restoration outcomes].~~

(g) A contract under Subsection (b) must require the designated provider to collect and submit to the commission ~~[department]~~ the information specified by rules adopted under Subsection (c).

(i) A [The] psychiatrist or psychologist for the provider who has the qualifications described by Article 46B.022 shall evaluate the defendant's competency and report to the court as required by Article 46B.079 ~~[conduct at least two full psychiatric evaluations of the defendant during the period the defendant receives competency restoration services in the jail. The psychiatrist must conduct one evaluation not later than the 21st day and one evaluation not later than the 55th day after the date the defendant begins to participate in the pilot program. The psychiatrist shall submit to the court a report concerning each evaluation required under this subsection].~~

(j) If at any time during a defendant's participation in the jail-based restoration of competency pilot program the psychiatrist or psychologist for the provider determines that the defendant has attained competency to stand trial:

(1) the psychiatrist or psychologist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2) the court shall consider that report as the report of an expert stating an opinion that the defendant has been restored to competency for purposes of Article 46B.0755(a) or (b).

(k) If at any time during a defendant's participation in the jail-based restoration of competency pilot program the psychiatrist or psychologist for the provider determines that the defendant's competency to stand trial is unlikely to be restored in the foreseeable future:

(1) the psychiatrist or psychologist for the provider shall promptly issue and send to the court a report demonstrating that fact; and

(2) the court shall:

(A) proceed under Subchapter E or F and order the transfer of the defendant, without unnecessary delay, to the first available facility that is appropriate for that defendant, as provided under Subchapter E or F, as applicable; or

(B) release the defendant on bail as permitted under Chapter 17.

(l) If the psychiatrist or psychologist for the provider determines that a defendant ordered to participate in the pilot program has not been restored to competency by the end of the 60th day after the date the defendant began to receive services in the pilot program, the jail-based competency restoration program shall continue to provide competency restoration services to the defendant for the period authorized by this subchapter, including any extension ordered under Article 46B.080, unless the jail-based competency restoration program is notified that space at a facility or outpatient competency restoration program appropriate for the defendant is available and, as applicable:

(1) for a defendant charged with a felony, not less than 45 days are remaining in the initial restoration period; or



(2) for a defendant charged with a felony or a misdemeanor, an extension has been ordered under Article 46B.080 and not less than 45 days are remaining under the extension order.

(1-1) After receipt of a notice under Subsection (l), [±

(1) for a defendant charged with a felony, the defendant shall be transferred, without unnecessary delay and for the remainder of the period prescribed by Article 46B.073(b), to the first available facility that is appropriate for that defendant as provided by Article 46B.073(e) or (d); and

(2) for a defendant charged with a misdemeanor, the court may:

(A) order a single extension under Article 46B.080 and the transfer of the defendant shall be transferred without unnecessary delay to the appropriate mental health facility, [or] residential care facility, or outpatient competency restoration program [as provided by Article 46B.073(d)] for the remainder of the period permitted by this subchapter, including any extension that may be ordered under Article 46B.080 if an extension has not previously been ordered under that article. If the defendant is not transferred, and if the psychiatrist or psychologist for the provider determines that the defendant has not been restored to competency by the end of the period authorized by this subchapter, the defendant shall be returned to the court for further proceedings. For a defendant charged with a misdemeanor, the court may:

(1) [under the extension;

[B)] proceed under Subchapter E or F;

(2) [C)] release the defendant on bail as permitted under Chapter 17; or

(3) [D)] dismiss the charges in accordance with Article 46B.010.

(1-2) The court retains authority to order the transfer of a defendant who is subject to an order for jail-based competency restoration services to an outpatient competency restoration program if:

(1) the court determines that the defendant is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial; and

(2) the other requirements of this subchapter relating to an order for outpatient competency restoration services are met.

(m) Unless otherwise provided by this article, the provisions of this chapter, including the maximum periods prescribed by Article 46B.0095, apply to a defendant receiving competency restoration services, including competency restoration education services, under the pilot program in the same manner as those provisions apply to any other defendant who is subject to proceedings under this chapter.

(n) If the commission [department] develops and implements a jail-based restoration of competency pilot program under this article, not later than December 1, 2021 [2018], the executive commissioner [of the department] shall submit a report concerning the pilot program to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues and over criminal justice issues. The report must include the information collected by the commission [department] during the pilot program and the executive commissioner's evaluation of the outcome of the program as of the date the report is submitted.

(o) This article expires September 1, 2022. After the expiration of this article, a pilot program established under this article may continue to operate subject to the requirements of Article 46B.091.

SECTION 7. Article 46B.091, Code of Criminal Procedure, is amended by amending Subsections (g) and (j) and adding Subsections (j-1) and (m) to read as follows:

(g) A psychiatrist or psychologist for the provider who has the qualifications described by Article 46B.022 shall evaluate the defendant's competency and report to the court as required by Article 46B.079 ~~[conduct at least two full psychiatric or psychological evaluations of the defendant during the period the defendant receives competency restoration services in the jail. The psychiatrist or psychologist must conduct one evaluation not later than the 21st day and one evaluation not later than the 55th day after the date the defendant is committed to the program. The psychiatrist or psychologist shall submit to the court a report concerning each evaluation required under this subsection].~~

(j) If the psychiatrist or psychologist for the provider determines that a defendant committed to a program implemented under this article has not been restored to competency by the end of the 60th day after the date the defendant began to receive services in the program, the jail-based competency restoration program shall continue to provide competency restoration services to the defendant for the period authorized by this subchapter, including any extension ordered under Article 46B.080, unless the jail-based competency restoration program is notified that space at a facility or outpatient competency restoration program appropriate for the defendant is available and, as applicable:

(1) for a defendant charged with a felony, not less than 45 days are remaining in the initial restoration period; or

(2) for a defendant charged with a felony or a misdemeanor, an extension has been ordered under Article 46B.080 and not less than 45 days are remaining under the extension order.

(j-1) After receipt of a notice under Subsection (j), [the defendant shall be transferred, without unnecessary delay and for the remainder of the period prescribed by Article 46B.073(b), to the first available facility that is appropriate for that defendant as provided by Article 46B.073(e) or (d); and

(2) for a defendant charged with a misdemeanor, the court may:

[(A) order a single extension under Article 46B.080 and, notwithstanding Articles 46B.073(e) and (f), the transfer of] the defendant shall be transferred without unnecessary delay to the appropriate mental health facility, [or] residential care facility, or outpatient competency restoration program [as provided by Article 46B.073(d)] for the remainder of the period permitted by this subchapter, including any extension that may be ordered under Article 46B.080 if an extension has not previously been ordered under that article. If the defendant is not transferred, and if the psychiatrist or psychologist for the provider determines that the defendant has not been restored to competency by the end of the period authorized by this subchapter, the defendant shall be returned to the court for further proceedings. For a defendant charged with a misdemeanor, the court may: [under the extension;]

(1) [(B)] proceed under Subchapter E or F;

(2) [(C)] release the defendant on bail as permitted under Chapter 17; or

(3) [(D)] dismiss the charges in accordance with Article 46B.010.

(m) The court retains authority to order the transfer of a defendant who is subject to an order for jail-based competency restoration services to an outpatient competency restoration program if:

(1) the court determines that the defendant is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial; and

(2) the other requirements of this subchapter relating to an order for outpatient competency restoration services are met.

SECTION 8. Subchapter E, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.1055 to read as follows:

Art. 46B.1055. MODIFICATION OF ORDER FOLLOWING INPATIENT CIVIL COMMITMENT PLACEMENT. (a) This article applies to a defendant who has been transferred under Article 46B.105 from a maximum security unit to any facility other than a maximum security unit.

(b) The defendant, the head of the facility to which the defendant is committed, or the attorney representing the state may request that the court modify an order for inpatient treatment or residential care to order the defendant to participate in an outpatient treatment program.

(c) If the head of the facility to which the defendant is committed makes a request under Subsection (b), not later than the 14th day after the date of the request the court shall hold a hearing to determine whether the court should modify the order for inpatient treatment or residential care in accordance with Subtitle C, Title 7, Health and Safety Code.

(d) If the defendant or the attorney representing the state makes a request under Subsection (b), not later than the 14th day after the date of the request the court shall grant the request, deny the request, or hold a hearing on the request to determine whether the court should modify the order for inpatient treatment or residential care. A court is not required to hold a hearing under this subsection unless the request and any supporting materials provided to the court provide a basis for believing modification of the order may be appropriate.

(e) On receipt of a request to modify an order under Subsection (b), the court shall require the local mental health authority or local behavioral health authority to submit to the court, before any hearing is held under this article, a statement regarding whether treatment and supervision for the defendant can be safely and effectively provided on an outpatient basis and whether appropriate outpatient mental health services are available to the defendant.

(f) If the head of the facility to which the defendant is committed believes that the defendant is a person with mental illness who meets the criteria for court-ordered outpatient mental health services under Subtitle C, Title 7, Health and Safety Code, the head of the facility shall submit to the court before the hearing a certificate of medical examination for mental illness stating that the defendant meets the criteria for court-ordered outpatient mental health services.

(g) If a request under Subsection (b) is made by a defendant before the 91st day after the date the court makes a determination on a previous request under that subsection, the court is not required to act on the request until the earlier of:

(1) the expiration of the current order for inpatient treatment or residential care; or

(2) the 91st day after the date of the court's previous determination.

(h) Proceedings for commitment of the defendant to a court-ordered outpatient treatment program are governed by Subtitle C, Title 7, Health and Safety Code, to the extent that Subtitle C applies and does not conflict with this chapter, except that the criminal court shall conduct the proceedings regardless of whether the criminal court is also the county court.

(i) The court shall rule on a request made under Subsection (b) as soon as practicable after a hearing on the request, but not later than the 14th day after the date of the request.

(j) An outpatient treatment program may not refuse to accept a placement ordered under this article on the grounds that criminal charges against the defendant are pending.

SECTION 9. Article 46C.102(a), Code of Criminal Procedure, is amended to read as follows:

(a) The court may appoint qualified psychiatrists or psychologists as experts under this chapter. To qualify for appointment under this subchapter as an expert, a psychiatrist or psychologist must:

(1) as appropriate, be a physician licensed in this state or be a psychologist licensed in this state who has a doctoral degree in psychology; and

(2) have the following certification [~~or experience~~] or training:

(A) as appropriate, certification by:

(i) the American Board of Psychiatry and Neurology with added or special qualifications in forensic psychiatry; or

(ii) the American Board of Professional Psychology in forensic psychology; or

(B) [~~experience or~~] training consisting of:

(i) at least 24 hours of specialized forensic training relating to incompetency or insanity evaluations; and

(ii) at least [~~five years of experience in performing criminal forensic evaluations for courts; and~~

~~(iii)]~~ eight [~~or more~~] hours of continuing education relating to forensic evaluations, completed in the 12 months preceding the appointment [~~and documented with the court~~].

SECTION 10. Section 511.009(d), Government Code, is amended to read as follows:

(d) The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that:

(1) a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody; and

(2) a prisoner with a mental illness be provided with each prescription medication that a qualified medical professional or mental health professional determines is necessary for the care, treatment, or stabilization of the prisoner.

SECTION 11. The following provisions of the Code of Criminal Procedure are repealed:

- (1) Articles 46B.090(a) and (h); and
- (2) Article 46B.091(a).

SECTION 12. The change in law made by this Act to Article 16.22, Code of Criminal Procedure, applies only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

SECTION 13. The change in law made by this Act to Article 17.04, Code of Criminal Procedure, applies only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of this Act is governed by the law in effect on the date the personal bond was executed, and the former law is continued in effect for that purpose.

SECTION 14. The change in law made by this Act to Article 46C.102(a), Code of Criminal Procedure, applies to a defendant against whom proceedings are initiated under Chapter 46C, Code of Criminal Procedure, before, on, or after the effective date of this Act.

SECTION 15. Not later than December 1, 2021, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(d), Government Code, as amended by this Act.

SECTION 16. This Act takes effect September 1, 2021.

The Conference Committee Report on **SB 49** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 900

Senator Springer submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
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 900** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SPRINGER  
BUCKINGHAM  
SCHWERTNER

HUBERTY  
MURPHY  
J. E. JOHNSON

HINOJOSA  
HANCOCK  
On the part of the Senate

LEACH  
WALLE  
On the part of the House

The Conference Committee Report on **HB 900** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1438**

Senator Bettencourt submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate  
Honorable Dade Phelan  
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 1438** 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.

BETTENCOURT  
HINOJOSA  
PERRY  
SCHWERTNER

MEYER  
BURROWS  
GUILLEN  
METCALF  
NOBLE

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the effect of a disaster on the calculation of certain tax rates and the procedure for adoption of a tax rate by a taxing unit.

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

SECTION 1. Section 45.0032(d), Education Code, is amended to read as follows:

(d) For a district to which Section 26.042(e) [~~26.08(a-1)~~], Tax Code, applies, the amount by which the district's maintenance tax rate exceeds the district's voter-approval tax rate, excluding the district's current debt rate under Section 26.08(n)(3) [~~26.08(n)(1)(C)~~], Tax Code, for the preceding year is not considered in determining a district's tier one maintenance and operations tax rate under Subsection (a) or the district's enrichment tax rate under Subsection (b) for the current tax year.

SECTION 2. Section 48.202(f), Education Code, is amended to read as follows:

(f) For a school year in which the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") under Subsection (a-1)(2) exceeds the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") under Subsection (a-1)(2) for the

preceding school year, a school district shall reduce the district's tax rate under Section 45.0032(b)(2) for the tax year that corresponds to that school year to a rate that results in the amount of state and local funds per weighted student per cent of tax effort available to the district at the dollar amount guaranteed level for the preceding school year. A school district is not entitled to the amount equal to the increase of revenue described by this subsection for the school year for which the district must reduce the district's tax rate. Unless Section 26.042(e) [~~26.08(a-1)~~], Tax Code, applies to the district, for a tax year in which a district must reduce the district's tax rate under this subsection, the district may not increase the district's maintenance and operations tax rate to a rate that exceeds the maximum maintenance and operations tax rate permitted under Section 45.003(d) or (f), as applicable, minus the reduction of tax effort required under this subsection. This subsection does not apply if the amount of state funds appropriated for a school year specifically excludes the amount necessary to provide the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort under Subsection (a-1)(2).

SECTION 3. Section 3828.157, Special District Local Laws Code, is amended to read as follows:

Sec. 3828.157. **INAPPLICABILITY OF CERTAIN TAX CODE PROVISIONS.** Sections 26.04, 26.042, 26.05, 26.07, and 26.075, Tax Code, do not apply to a tax imposed under Section 3828.153 or 3828.156.

SECTION 4. Section 8876.152(a), Special District Local Laws Code, is amended to read as follows:

(a) Sections 26.04, 26.042, 26.05, 26.06, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax imposed by the district.

SECTION 5. Section 11.43(s), Tax Code, is amended to read as follows:

(s) A person who qualifies for an exemption under Section 11.35(b) must apply for the exemption not later than the 105th day after the date the governor declares the area in which the person's qualified property is located to be a disaster area. ~~[A person who qualifies for an exemption under Section 11.35(c) must apply for the exemption not later than the 45th day after the date the governing body of the taxing unit adopts the exemption.]~~ The chief appraiser may extend the deadline [~~deadlines~~] prescribed by this subsection for good cause shown.

SECTION 6. Chapter 26, Tax Code, is amended by adding Section 26.042 to read as follows:

Sec. 26.042. CALCULATION AND ADOPTION OF CERTAIN TAX RATES IN DISASTER AREA. (a) Notwithstanding Sections 26.04 and 26.041, the governing body of a taxing unit other than a school district or a special taxing unit may direct the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit if any part of the taxing unit is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States and at least one person is granted an exemption under Section 11.35 for property located in the taxing unit. The designated officer or employee shall continue calculating the voter-approval tax rate in the manner provided by this subsection until the earlier of:

(1) the first tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred; or

(2) the third tax year after the tax year in which the disaster occurred.

(b) In the first tax year following the last tax year for which the designated officer or employee calculates a taxing unit's voter-approval tax rate in the manner provided by Subsection (a), the taxing unit's voter-approval tax rate is reduced by the taxing unit's emergency revenue rate. For purposes of this subsection, a taxing unit's emergency revenue rate means a rate expressed in dollars per \$100 of taxable value calculated according to the following formula:

EMERGENCY REVENUE RATE = [(LAST YEAR'S ADOPTED TAX RATE - ADJUSTED VOTER-APPROVAL TAX RATE) x LAST YEAR'S TOTAL VALUE] / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)

(c) For purposes of Subsection (b), "adjusted voter-approval tax rate" means the voter-approval tax rate a taxing unit would have calculated in the last year for which Subsection (a) applied to the taxing unit if in each tax year Subsection (a) applied to the taxing unit the taxing unit adopted a tax rate equal to the greater of:

(1) the tax rate actually adopted by the taxing unit for that tax year, if that tax rate was approved by the voters at an election held under Section 26.07; or

(2) the taxing unit's voter-approval tax rate for that tax year, calculated in the manner provided for a taxing unit other than a special taxing unit.

(d) When increased expenditure of money by a taxing unit other than a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, epidemic, or pandemic, that has impacted the taxing unit and the governor has declared any part of the area in which the taxing unit is located as a disaster area, an election is not required under Section 26.07 to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs.

(e) When increased expenditure of money by a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, epidemic, or pandemic, that has impacted the school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election is not required under Section 26.08 to approve the tax rate adopted by the governing body of the school district for the year following the year in which the disaster occurs. A tax rate adopted under this subsection applies only in the year for which the rate is adopted.

(f) If a taxing unit adopts a tax rate under Subsection (d) or (e), the amount by which that rate exceeds the taxing unit's voter-approval tax rate for that tax year may not be considered when calculating the taxing unit's voter-approval tax rate for the tax year following the year in which the taxing unit adopts the rate.

(g) A taxing unit that in a tax year elects to calculate the taxing unit's voter-approval tax rate under Subsection (a) or adopt a tax rate that exceeds the taxing unit's voter-approval tax rate for that tax year without holding an election under Subsection (d) or (e) must specify the disaster declaration that provides the basis for



authorizing the taxing unit to calculate or adopt a tax rate under the applicable subsection. A taxing unit that in a tax year specifies a disaster declaration as providing the basis for authorizing the taxing unit to calculate or adopt a tax rate under Subsection (a), (d), or (e) may not in a subsequent tax year specify the same disaster declaration as providing the basis for authorizing the taxing unit to calculate or adopt a tax rate under one of those subsections if in an intervening tax year the taxing unit specifies a different disaster declaration as the basis for authorizing the taxing unit to calculate or adopt a tax rate under one of those subsections.

SECTION 7. Section 26.07(b), Tax Code, is amended to read as follows:

(b) If the governing body of a special taxing unit or a municipality with a population of 30,000 or more adopts a tax rate that exceeds the taxing unit's voter-approval tax rate, or the governing body of a taxing unit other than a special taxing unit or a municipality with a population of less than 30,000 regardless of whether it is a special taxing unit adopts a tax rate that exceeds the greater of the taxing unit's voter-approval tax rate or de minimis rate, the registered voters of the taxing unit at an election held for that purpose must determine whether to approve the adopted tax rate. ~~[When increased expenditure of money by a taxing unit is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, that has impacted the taxing unit and the governor has declared any part of the area in which the taxing unit is located as a disaster area, an election is not required under this section to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs.]~~

SECTION 8. Section 49.107(g), Water Code, is amended to read as follows:

(g) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax levied and collected under this section or an ad valorem tax levied and collected for the payment of the interest on and principal of bonds issued by a district.

SECTION 9. Section 49.108(f), Water Code, is amended to read as follows:

(f) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax levied and collected for payments made under a contract approved in accordance with this section.

SECTION 10. The following provisions of the Tax Code are repealed:

- (1) Sections 11.35(c), (d), and (e);
- (2) Section 26.04(c-1);
- (3) Section 26.041(c-1); and
- (4) Section 26.08(a-1).

SECTION 11. The changes in law made by this Act to Sections 11.35 and 11.43, Tax Code, apply only to ad valorem taxes imposed for a tax year that begins on or after January 1, 2022.

SECTION 12. 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, 2021.

The Conference Committee Report on **SB 1438** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1164**

Senator Campbell submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2021

Honorable Dan Patrick  
President of the Senate  
Honorable Dade Phelan  
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 1164** 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.

CAMPBELL  
HINOJOSA  
HUFFMAN  
NELSON  
WHITMIRE

COLLIER  
NEAVE  
CROCKETT  
THIERRY

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the prosecution of the offense of sexual assault.

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

SECTION 1. Section 22.011(b), Penal Code, is amended to read as follows:

(b) A sexual assault under Subsection (a)(1) is without the consent of the other person if:

(1) the actor compels the other person to submit or participate by the use of physical force, violence, or coercion;

(2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person or to cause harm to the other person, and the other person believes that the actor has the present ability to execute the threat;

(3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

(4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;

(5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;

(6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;

(7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;

(8) the actor is a public servant who coerces the other person to submit or participate;

(9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;

(10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser;

(11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code; ~~or~~

(12) the actor is a health care services provider who, in the course of performing an assisted reproduction procedure on the other person, uses human reproductive material from a donor knowing that the other person has not expressly consented to the use of material from that donor;

(13) the actor is a coach or tutor who causes the other person to submit or participate by using the actor's power or influence to exploit the other person's dependency on the actor; or

(14) the actor is a caregiver hired to assist the other person with activities of daily life and causes the other person to submit or participate by exploiting the other person's dependency on the actor.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2021.

The Conference Committee Report on **SB 1164** was filed with the Secretary of the Senate.

### **CO-AUTHOR OF SENATE BILL 63**

On motion of Senator Nelson, Senator Bettencourt will be shown as Co-author of **SB 63**.

### **CO-AUTHOR OF SENATE BILL 321**

On motion of Senator Huffman, Senator Perry will be shown as Co-author of **SB 321**.

### **CO-AUTHOR OF SENATE BILL 790**

On motion of Senator Zaffirini, Senator Hancock will be shown as Co-author of **SB 790**.

**CO-AUTHOR OF SENATE BILL 1877**

On motion of Senator Johnson, Senator Lucio will be shown as Co-author of **SB 1877**.

**CO-AUTHORS OF SENATE BILL 1896**

On motion of Senator Kolkhorst, Senators Bettencourt and Menéndez will be shown as Co-authors of **SB 1896**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 518** by Buckingham, In memory of Janice Mavie Rees Wilcox.

**SR 529** by Springer, In memory of Louis Provenza.

**SR 530** by Springer, In memory of Anna Lee Calhoun and her daughter, Harper Marie Provenza.

**SR 531** by Springer, In memory of John Kristoffer Skold.

**SR 532** by Springer, In memory of John Edward Fortenberry.

**SR 536** by Springer, In memory of Gary Eldon Beavers.

**Congratulatory Resolutions**

**SR 521** by Hughes, Recognizing Caroline Braun on the occasion of her 102nd birthday.

**SR 522** by Springer, Recognizing the Parker County Historical Commission on the approval of an Official Texas Historical Marker.

**SR 523** by Springer, Recognizing Victoria Saucedo for earning the Girl Scout Gold Award.

**SR 524** by Springer, Recognizing Courtney McGuire for earning the Girl Scout Gold Award.

**SR 525** by Springer, Recognizing Taryn Gibbs for earning the Girl Scout Gold Award.

**SR 526** by Springer, Recognizing Blake Pyron for his achievements as owner of Blake's Snow Shack.

**SR 527** by Springer, Recognizing Ainsley Boyd for being named valedictorian of the Decatur High School Class of 2021.

**SR 528** by Springer, Recognizing Judy Conner on the occasion of her retirement.

**SR 533** by Springer, Recognizing Kimberley DeNeefe on her recognition as an educator by Weatherford College.

**SR 534** by Springer, Recognizing White's Funeral Homes on being approved for an Official Texas Historical Marker.

**SR 535** by Springer, Recognizing Charles Bultena for receiving a Piper Award.

**SR 537** by Springer, Recognizing Rachel Anne Samek for receiving the American Heritage Girls Stars & Stripes Award.

**SR 538** by Springer, Recognizing the dedication of a Texas Historical Marker at the former site of Bob Stone Camp.

**MOTION TO ADJOURN**  
**(Motion In Writing)**

Senator Whitmire offered the following Motion In Writing:

Mr. President:

I move that the Senate adjourn until 1:00 p.m. tomorrow, pending the receipt of House messages.

WHITMIRE

The Motion In Writing was read and prevailed without objection.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 28, 2021 - 9

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 966** Kolkhorst Sponsor: Klick  
Relating to legislative oversight during a public health disaster or public health emergency, including the establishment of a legislative public health oversight board.  
(Amended)

**SB 968** Kolkhorst Sponsor: Klick  
Relating to public health disaster and public health emergency preparedness and response; providing a civil penalty.  
(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 10:58 p.m. adjourned, in memory of Carroll Homer Maxwell Jr., Kenton Dale Harris, Samuel Alexander Leonard, and Stephen Jones, until 1:00 p.m. tomorrow.

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**APPENDIX**

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**BILLS AND RESOLUTIONS ENROLLED**May 27, 2021

**SB 73, SB 113, SB 123, SB 149, SB 153, SB 157, SB 160, SB 168, SB 181, SB 198, SB 199, SB 202, SB 224, SB 226, SB 239, SB 286, SB 289, SB 374, SB 474, SB 476, SB 483, SB 507, SB 600, SB 630, SB 709, SB 760, SB 763, SB 804, SB 809, SB 876, SB 877, SB 900, SB 901, SB 904, SB 906, SB 1055, SB 1056, SB 1059, SB 1063, SB 1103, SB 1113, SB 1116, SB 1418, SB 1490, SB 1642, SB 1941, SCR 21, SCR 22, SCR 52, SCR 53, SJR 19, SR 456, SR 473, SR 490, SR 496, SR 497, SR 498, SR 499, SR 501, SR 502, SR 503, SR 504, SR 506, SR 508, SR 509, SR 510, SR 511, SR 512, SR 514**

**SIGNED BY GOVERNOR**May 28, 2021

**SB 858, SB 884, SB 886, SB 941, SB 952, SB 1093, SB 1105, SB 1122, SB 1130, SB 1225, SB 1226, SB 1251, SCR 1, SCR 11, SCR 17, SCR 43**

**In Memory**  
**of**  
**Carroll Homer Maxwell Jr.**  
**Senate Resolution 487**

WHEREAS, Carroll Homer Maxwell Jr. of McKinney led a full and generous life and went home to be with the Lord on December 26, 2020, at the age of 92; and

WHEREAS, The son of Carroll and Virginia Maxwell, Carroll Maxwell Jr. was born in Wichita Falls on May 29, 1928; he moved with his family to Dallas, where he graduated from Highland Park High School, and continued his education at Texas A&M University; and

WHEREAS, Mr. Maxwell served four years in the Army National Guard of the United States and the Army National Guard of Texas from 1948 to 1952; honorably discharged, he went on to enjoy entrepreneurial success over the course of his career; early on, he developed apartments and homes in Richardson, and he and his brother, Jim Maxwell, shared in the operation of several businesses, including a transistor radio factory, TV station Channel 33, and Central Systems; and

WHEREAS, A valued member of the Republican Party, Mr. Maxwell served as president of the Collin County Conservative Republicans and as a delegate to the 2016 Republican National Convention; he received a Leadership Award from the CCCR and a Conservative Leaders Award from Empower Texans, and he was named Man of the Year by the Golden Corridor Republican Women; and

WHEREAS, Mr. Maxwell also lent his support to the CASA organization, and he was honored as Child Advocate of the Year by CASA of Collin County; in addition, he was appointed to the Collin County Child Protective Services Board, and he was recognized as Kiwanian of the Year by the Kiwanis Club of McKinney; he was a member of the National Society of the Sons of the American Revolution and a longtime member of First United Methodist Church of McKinney; and

WHEREAS, Above all, Mr. Maxwell cherished time spent with his family, which included his wife, the late Marilyn Maxwell, and his children, Alice, Max, Karen, Cathy, and Patty, as well as his 15 grandchildren and two great-grandchildren; and

WHEREAS, Although Carroll Maxwell is deeply missed, he will forever hold a treasured place in the hearts of all who held him dear; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 87th Legislature, hereby pay tribute to the memory of Carroll Homer Maxwell Jr. and extend sincere condolences to his relatives and friends; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for his family and that when the Texas Senate adjourns this day, it do so in memory of Carroll Maxwell.

PAXTON



**In Memory**  
**of**  
**Kenton Dale Harris**  
**Senate Resolution 489**

WHEREAS, Family and friends will forever treasure their memories of Kenton Dale Harris of Friendswood, who died on March 9, 2021, at the age of 88; and

WHEREAS, Kenton Harris was born on July 4, 1932, in Kingman, Kansas, to Delbert and Florence Harris, and he grew up with four siblings, Leland, Marjorie, Maxine, and Richard; an impressive athlete, he played football and was named an All-State running back at Cheney High School; he went on to play varsity football at Friends University, where he graduated with a bachelor's degree in physical education in 1953; while subsequently coaching at William Penn University, he earned a master's degree from Drake University; and

WHEREAS, Answering his nation's call to duty, Mr. Harris served in the U.S. Army with the 868th field artillery from 1956 to 1958, when he began his civilian career as an educator and coach in Elkhart, Kansas; he joined the Friendswood Independent School District in 1971 and served the district for 25 years as a teacher, coach, and administrator, until his retirement; he guided the Friendswood Mustangs to a state championship in 1973 and helped them reach the 2A and 3A playoffs multiple times; he was later inducted into the Friendswood Mustang Hall of Honor, and in 2015, he was named an Honorary Distinguished Alumni of Friendswood High School; and

WHEREAS, A man of strong religious faith, Mr. Harris was a longtime member of Friendswood Friends Church; through the years, he served the congregation as a Sunday school teacher, as a youth group sponsor, and as head of the ministry and oversight committee; he also led the Fellowship of Christian Athletes chapter at Friendswood High, and in 1986, the group named him State Huddle Leader of the Year; and

WHEREAS, Mr. Harris shared a loving relationship with his wife, Karolena Joyce Boyle Harris, that spanned more than six decades; he was the proud father of two sons, Kevin and Kelly, and with the passing years, he was further blessed with three grandsons, James, Kenton, and Charles; and

WHEREAS, Kenton Harris lived a full and generous life devoted to his family, his profession, and his faith, and he leaves behind a legacy of integrity and generosity that will continue to inspire all those he leaves behind; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 87th Legislature, hereby pay tribute to the memory of Kenton Dale Harris and extend heartfelt sympathy to his relatives and many friends; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for his family and that when the Texas Senate adjourns this day, it do so in memory of Kenton Dale Harris.

TAYLOR

**In Memory**  
**of**  
**Samuel Alexander Leonard**  
**Senate Resolution 507**

WHEREAS, Deputy Samuel Alexander Leonard of the Concho County Sheriff's Office was killed in the line of duty on May 10, 2021, at the age of 26, and the tragic passing of this exemplary officer is a tremendous loss to his family, his department, and his community; and

WHEREAS, The cherished son of Randy and Letha Leonard, Samuel Leonard was born in Lubbock on July 26, 1994, and he grew up with the companionship of three siblings, Zach, Jacob, and Tiane; he started attending First Baptist Church of Lamesa as a youth, and he earned the rank of Eagle Scout with the Boy Scouts of America; he graduated from Klondike High School in 2013 and attended Angelo State University; and

WHEREAS, A member of Lamesa Fire and Rescue, Mr. Leonard began his law enforcement career with the Concho County Sheriff's Department in June 2019; he transferred to the Dawson County Sheriff's Department in December of that year and then returned to Concho County in 2021; to his colleagues, he was like family, and after his untimely death, his department vowed to honor his legacy by retiring his badge and unit number; and

WHEREAS, Deputy Leonard shared a rewarding marriage with his wife, Morgan Lea Leonard, whom he wed on June 3, 2017, in San Angelo; this devoted family man treasured time spent with his daughter, Magnolia Rae Leonard, and he had a contagious laugh and a natural ability to put others at ease; moreover, he was a member of Milam Masonic Lodge No. 11 in Lamesa; and

WHEREAS, Embodying the highest ideals of the law enforcement profession, Deputy Samuel Leonard served his community and his state with compassion, integrity, and honor, and although he is gone, his dedication and sacrifice will never be forgotten; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 87th Legislature, hereby pay tribute to the life of Samuel Alexander Leonard and extend heartfelt condolences to the members of his family: to his wife, Morgan Lea Leonard; to his daughter, Magnolia Rae Leonard; to his parents, Randy and Letha Leonard; to his brothers, Zach Leonard and his wife, Rebekah, and Jacob Leonard; to his sister, Tiane Garner, and her husband, Christian; to his grandparents, Richard and Virginia Leonard and Lloyd and Elva Lenz; to his father-in-law and mother-in-law, Randall and Tracy Frierson; and to his other relatives and many friends; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for his family and that when the Texas Senate adjourns this day, it do so in memory of Deputy Samuel Leonard.

PERRY

**In Memory****of****Stephen Jones****Senate Resolution 513**

WHEREAS, Sergeant Stephen Jones of the Concho County Sheriff's Office was killed in the line of duty on May 10, 2021, at the age of 34, and the tragic passing of this exemplary officer is a tremendous loss to his family, his department, and his community; and

WHEREAS, Born in San Angelo on July 9, 1986, Stephen Jones was the son of Doug and Nola Jones; he grew up with the companionship of four brothers, James, Mark, David, and Daniel, and three sisters, Marie, Teresa, and Sarah, and he graduated from his homeschool program in 2005; setting his sights on a career in law enforcement, he earned his basic peace officer certification from the Concho Valley Council of Governments; and

WHEREAS, Mr. Jones joined the force as a deputy with the Concho County Sheriff's Office; well-liked and widely admired in his community, he impressed his fellow citizens with his kindness, his cheerful demeanor, and his willingness to lend a helping hand whenever he was needed; to his colleagues in the sheriff's office, he was like family, and after his untimely death, his department vowed to honor his legacy by retiring his badge and unit number; and

WHEREAS, Sergeant Jones shared a rewarding marriage with the love of his life, Rebekah Jones, whom he wed on May 28, 2005; a devoted father, he deeply cherished his five children, Tyrel, Kimber, Dakota, Grace, and Katie; in addition to spending time with his loved ones, he enjoyed being outdoors, and he took great pleasure in ranching, hunting, and shooting; and

WHEREAS, Embodying the highest ideals of the law enforcement profession, Sergeant Stephen Jones served his community and his state with compassion, integrity, and honor, and although he is gone, his dedication and sacrifice will never be forgotten; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 87th Legislature, hereby pay tribute to the life of Sergeant Stephen Jones and extend heartfelt condolences to the members of his family: to his wife, Rebekah Jones; to his children, Tyrel Jones, Kimber Jones, Dakota Jones, Grace Jones, and Katie Jones; to his parents, Doug and Nola Jones; to his siblings, James Jones, Mark Jones, Marie Jones, David Jones, Teresa Jones, Daniel Jones, and Sarah Jones; to his father- and mother-in-law, Thomas and Tammy Coder; and to his many other relatives and friends; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for his family and that when the Texas Senate adjourns this day, it do so in memory of Sergeant Stephen Jones.

PERRY