Acknowledgements

The Senate Research Center publishes the *Highlights of the Texas Legislature: A Summary of Enrolled Legislation* after each regular session of the Texas Legislature in order to centralize information relating to enrolled legislation.

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Overview

The Conference Committee (committee) on H.B. 1, the General Appropriations Act, recommended $209.4 billion in All Funds for state government operations for the 2016-2017 state fiscal biennium beginning September 1, 2015. This recommendation represents an increase of $7.3 billion, or 3.6 percent, compared to the estimated costs of the 2014-2015 biennium. The committee recommended $106.6 billion in General Revenue (GR) and GR-Dedicated funds for the 2016-2017 biennium. This recommendation represents a $11.4 billion increase, or 12.0 percent, from the estimated costs of the 2014-2015 biennium.

The committee recommended $6.4 billion in All Funds, including $3.8 billion in GR and GR-Dedicated funds, for Article I-General Government; $77.2 billion in All Funds, including $33.4 billion in GR and GR-Dedicated funds, for Article II-Health and Human Services; and $78.4 billion in All Funds, including $58.6 billion in GR and GR-Dedicated funds, for Article III-Agencies of Education. This includes $58.4 billion in All Funds for public education and $19.9 billion in All Funds for higher education. The committee recommended $796.8 million in All Funds, including $613.0 million in GR and GR-Dedicated funds, for Article IV-The Judiciary; $12.4 billion in All Funds, including $11.5 billion in GR and GR-Dedicated funds, for Article V-Public Safety and Criminal Justice; $4.4 billion in All Funds, including $2.3 billion in GR and GR-Dedicated funds, for Article VI-Natural Resources; $27.7 billion in All Funds, including $1.7 billion in GR and GR-Dedicated funds, for Article VII-Business and Economic Development; $920.4 million in All Funds, including $888.4 million in GR and GR-Dedicated funds, for Article VIII-Regulatory; $924.0 million in All Funds, including $810.6 million in GR and GR-Dedicated funds, for Article IX-General Provisions; and $385.5 million in All Funds, including $385.3 million in GR and GR-Dedicated funds, for Article X-The Legislature.

Major Highlights

Foundation School Program

Appropriates $42.3 billion in All Funds to school districts and charter schools through the Foundation School Program (FSP) system, which is a 6.8 percent increase from the 2014–2015 biennium partially attributable to the $1.2 billion to cover property tax relief. Appropriates a $1.5 billion increase in FSP funding over current law, which includes $1.2 billion related to an increase in the basic allotment; $200 million contingent on legislation that equalizes within the school finance formulas the treatment of similar tax effort across school districts; $55.5 million for the Instructional Facilities Allotment to provide tax relief for property-poor districts issuing bonds for local facility needs; and $47.5 million for the New Instructional Facilities Allotment to provide startup funds for new district and charter school campuses.

Tax Relief Provisions

Appropriates $3.8 billion in additional GR to the FSP in the 2016–17 biennium to hold school districts harmless for lost revenue resulting from tax relief legislation, which is attributable to two separate tax relief provisions: $1.2 billion for the enactment of legislation that would provide an equivalent amount of school district property tax relief to cover the increase of the homestead exemption from $15,000 to $25,000; and
$2.6 billion for franchise tax reform resulting in equivalent savings and a corresponding reduction to the Property Tax Relief Fund (PTRF) resulting from a 25.0 percent reduction in the franchise tax.

**Medicaid**

Appropriates $61.2 billion in All Funds, including $25.0 billion in GR and $0.2 billion in GR-Dedicated Funds, to the Texas Medicaid program, which is an increase of $2.1 billion in All Funds. Increases funding by approximately $1.7 billion in GR for projected Medicaid caseload growth, including the transition of certain children from CHIP to Medicaid; maintaining fiscal year 2015 average costs for most programs, including fiscal year 2015 rate increases; replacing $0.3 billion in Interagency Contracts with GR; and full biennial funding of the Community First Choice program.

Appropriates an increase of approximately $797.3 million in GR as a result of a loss of federal funding due to a less favorable Federal Medical Assistance Percentage (FMAP).

Appropriates $587.7 million in All Funds, including $241.7 million in GR, to reimburse Medicaid managed care organizations for the cost of the Affordable Care Act Health Insurance Providers Fee and associated federal income tax. Appropriates $712.6 million in All Funds, an increase of $573.3 million, for increases to hospital payments, including those to rural, trauma-designated, and safety-net hospitals. Appropriates $327.6 million in All Funds, including $125.7 million in GR, to fund an additional 5,601 long-term-care waiver clients at the Department of Aging and Disability Services by the end of fiscal year 2017 and additional clients in the STAR+PLUS program at HHSC.

**Transportation**

Appropriates $23.1 billion in All Funds for all functions of the Texas Department of Transportation (TxDOT), which includes an increase in the State Highway Fund (SHF) made available from the discontinuation of $1.3 billion in SHF appropriations to agencies other than TxDOT and $2.4 billion in funding from oil and natural gas tax-related transfers to SHF as approved by voters in November 2014 (Proposition 1, 2014).

Appropriates $19.6 billion in All Funds for transportation planning and design, right-of-way acquisition, construction, and maintenance and preservation, which includes $8.8 billion for maintenance and preservation of the existing transportation system; $5.8 billion for construction and highway improvements; $2.4 billion from estimated oil and natural gas tax-related transfers to SHF for constructing, maintaining, and acquiring rights-of-way for non-tolled public roadways; $1.8 billion for transportation system planning, design, and management; and $0.9 billion for right-of-way acquisition.

Appropriates $2.2 billion in All Funds for debt service payments and other financing costs, including $1.6 billion in Other Funds from SHF and Texas Mobility Fund, $500.9 million in GR, and $125.7 million in Federal Funds from Build America Bond interest payment subsidies.

**Mental Health**

Appropriates $3.6 billion in All Funds, an increase of $150.7 million over the 2014–2015 biennium, for behavioral health and substance abuse services that are distributed across 18 agencies in five articles. Increases funding for inpatient client services for new contracted community hospital beds, state hospital information technology improvements, and building repairs and inflation-related cost increases. Increases
funding for outpatient services that reflects funding adjustments for local mental health authorities, funding the adult mental health waitlist, federal Preadmission Screening and Resident Review services, substance abuse prevention and treatment, neonatal abstinence syndrome prevention services, transition support for patients moving from hospitals to the community, expansion of recovery-focused clubhouses, crisis and suicide prevention services, and residential treatment slots for Department of Family and Protective Services clients who are at risk of parental relinquishment. Discontinues the NorthSTAR behavioral health program in January 2017. Supports mental health care services and substance abuse treatment for incarcerated offenders and civilly committed violent sex offenders, mental health care services for veterans, child advocacy centers, psychiatric services at the University of Texas Health Science Centers in Tyler and Houston and enhanced behavioral intervention and crisis respite services for individuals with intellectual and developmental disabilities who have behavioral issues.

Requires state agencies with mental health appropriations to develop a joint strategic plan to coordinate mental health programs and funding across the state.

Higher Education Formula Funding

Increases the higher education funding formulas by $391.5 million in GR and supports an increase of $68.2 million in statutory tuition in GR—Dedicated funds, which reflects the funding of enrollment growth and increasing rates in all of the formulas except the Health-Related Institutions' two mission-specific formulas and the success point component of the Public Community and Junior Colleges formula.

Increases the formula funding for the General Academic Institutions (GAs) Instruction and Operations (I&O) rate; the Lamar State Colleges I&O rate; the Texas State Technical College (TSTC) I&O rate; and the Health Related Institutions (HRIs) I&O rate.

Juvenile Justice

Appropriates $634.9 million in All Funds and $591.0 million in GR to the Texas Juvenile Justice Department (TJJD) for juvenile justice services. Provides a revised funding structure and direction in the development and implementation of a regional diversion alternatives plan with the goal of providing services to youth in their home communities and reducing the number of youth committed to TJJD state secure facilities.

Border Security

Appropriates $800.0 million to fund border security initiatives at the Department of Public Safety (DPS), the Trusteed Programs within the Office of the Governor, the Texas Parks and Wildlife Department (TPWD), the Texas Alcoholic Beverage Commission, the Texas Commission on Law Enforcement, and the Department of Criminal Justice. Provides $39.6 million in federal grants for Operation Stone Garden, which increases the All Funds total for border security to $839.6 million.

Appropriates $789.4 million in All Funds to DPS, including $528.7 million for Goal B, Secure Texas: $142.6 million for a 50-hour work week for all DPS troopers; $107.0 million to recruit, train and equip 250 new and transfer DPS troopers; and $83.4 million to continue Operation Strong Safety through the 2016–2017 biennium. Appropriates $38.4 million to Trusteed Programs Within the Office of the Governor for local grants and other support and $10.0 million to TPWD for enhanced game warden activity.
Facilities

Appropriates $387.7 million in GR from the deferred maintenance fund, contingent on passage of legislation, for deferred maintenance projects, including $217.2 million to the Texas Facilities Commission, $19.6 million to the Texas Military Department, $60.0 million to the Texas Department of Criminal Justice, and $91.0 million to TPWD.

Appropriates $107.6 million in GR for miscellaneous facilities’ needs, including $15.0 million to the State Preservation Board for maintenance for the Capitol, Capitol Visitor Center, and State History Museum; $20.0 million for courthouse preservation grants; $5.1 million for building repairs at multiple historic sites under control of the Texas Historical Commission; $2.0 million for maintenance and repairs at Howard College; $12.5 million for grants for capital improvements at TPWD; $26.0 million for the construction of a new parking garage for the Elias Ramirez Building; $2.0 million for the relocation of staff in the Hobby Complex at the Texas Facilities Commission; and $25.0 million to implement the Alamo master plan at the Texas General Land Office.

Appropriates $957.7 million in Revenue Bond Proceeds and $14.8 million in GR for the related debt service at the Texas Facilities Commission to construct several new facilities, including: utility infrastructure and two buildings in the Capitol Complex; a facility in the North Austin Complex; a new headquarters for TxDMV; and a facility and parking structure to replace the G. J. Sutton Building.

Teacher Retirement and Health Benefits

Appropriates $3.6 billion in All Funds for the state contribution to retirement benefits of the Teacher Retirement System (TRS), including $3.5 billion in GR, $94.2 million in GR—Dedicated funds, and $6.8 million in Other Funds (Teacher Retirement System Pension Trust Fund Account No. 960). Provides a contribution rate of 6.8 percent of employee payroll in each year of the 2016–17 biennium.

Appropriates $562.2 million in GR for retiree health insurance. Requires a state contribution to TRS-Care of 1.0 percent of public education payroll.

State Employee Retirement

Increases funding for state contributions to the Employees Retirement System (ERS) retirement program by $265.3 million in All Funds. Requires a 9.5 percent state contribution rate each fiscal year of the 2016–2017 biennium. Funds statewide salary increases pending the enactment of legislation.

Correctional Officer Pay Increase and Schedule C Adjustment

Appropriates $188.0 million in GR to the Texas Department of Criminal Justice (TDCJ) for an 8.0 percent pay increase to correctional officers and parole officers at TDCJ. Appropriates $2.3 million in GR to the Board of Pardons and Paroles to provide an 8.0 percent pay increase to parole officers at the Board of Pardons and Paroles.

Appropriates $1.7 million in All Funds to provide pay increases and related benefits to certain positions in Salary Schedule C to address salary compression.
Health Benefits

Appropriates $3.6 billion in All Funds, including $2.6 billion in GR and GR–Dedicated funds, for the state contribution for group insurance benefits for general state employees, retirees, and their dependents.

Social Security

Appropriates $1.6 billion in All Funds, including $1.3 billion in GR and GR–Dedicated funds, for the state contribution for Social Security payroll taxes.

Debt Service

Appropriates $4.0 billion in All Funds, an increase of $390.4 million, or 10.8 percent, from the 2014–2015 biennium, to fully fund debt service for general obligation and revenue debt issued or expected to be issued by the Texas Public Finance Authority, the Texas Water Development Board, and the Texas Department of Transportation. Provides funding for reimbursement of debt service payments for tuition revenue bonds issued by institutions of higher education. Appropriates $240.0 million in GR to state agencies of higher education for new revenue bonds for capital projects at various institutions of higher education.

Appropriates $14.8 million in GR for issuance of new revenue debt totaling $957.7 million by the Texas Public Finance Authority for new state owned buildings and parking structures under the purview of the Texas Facilities Commission and $6.0 million in GR for issuance of new general obligation debt totaling $50.0 million at the Texas Water Development Board for grants to economically distressed areas.

Supplemental Appropriations—H.B. 2

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

The budget for the 2014-2015 biennium requires supplemental appropriations to meet the fiscal reality of the last two years and cover the higher costs of various services. The appropriations process requires the legislature to consider estimations for the needs of the state. Sometimes, the estimates are incorrect and require budgetary adjustments to meet the state's obligations for various services. This bill:

Reduces appropriations for the following: $25 million from the Public Finance Authority; $710 million from the Texas Education Agency; $22.1 million from the Texas Department of Transportation (TxDOT); $50 million from the Health and Human Services Commission (HHSC); and $33.4 million from general revenue (GR) appropriations to the Department of Family and Protective Services (DFPS).

Appropriates the following: $9.5 million for the Texas Facilities Commission for emergency repairs and projects; $10.95 million for the Texas School for the Deaf; $500,000 for costs related to fulfilling the Capitol Complex Plan; $500,000 for headquarters for the Texas Department of Motor Vehicles (TxDMV); $43.7 million for the foster care shortfall at DFPS; $75.5 million from GR and $104.5 million in federal funds for Medicaid payments; $79 million from GR and $113.6 million in federal funds for Medicaid health insurance provider fees; $3.1 million in federal funds for the Temporary Assistance for Needy Families; $768.1 million for the Teacher Retirement System of Texas (TRS) Care program; $4.5 million for the economic geology program at The University of Texas-Austin; $1.1 million in hurricane damages for Lamar State College-Orange; $8.2 for a bio-containment critical care unit at The University of Texas Medical Branch-Galveston;
$42.5 million for correctional managed healthcare from the Texas Department of Criminal Justice; $9.0 million for border security costs for the Texas Military Department; $29.2 million for border security operations by the Department of Public Safety; $5.3 million to the Texas Department of Insurance; and $87.7 million for the Texas Tomorrow Fund.

**Consolidation of Certain Funds and Accounts—H.B. 6**

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

H.B. 6 is the funds consolidation bill that is passed each session as a critical part of the state budget and provides parameters for the creation and recreation of funds and accounts in the state treasury. Upon the end of the 2016-2017 biennium, H.B. 6 abolishes all accounts, funds, or revenue dedications that are created or recreated by the 84th Legislature unless specifically exempted under separate provisions of this bill. Any dedicated accounts or revenue that are abolished will be deposited in the unobligated portion of the general revenue (GR) fund. This bill:

Provides that, except as otherwise specifically provided by this Act, all funds and accounts created or recreated by an Act of the 84th Legislature, Regular Session, 2015, that becomes law and all dedications or rededications of revenue collected by a state agency for a particular purpose by an Act of the 84th Legislature, Regular Session, 2015, that becomes law are abolished on the later of August 31, 2015, or the date the Act creating or re-creating the fund or account or dedicating or redeedicating revenue takes effect.

Provides that this Act does not apply to statutory dedications, funds, and accounts that were enacted before the 84th Legislature convened to comply with requirements of state constitutional or federal law; dedications, funds, or accounts that remained exempt at the time dedications, accounts, and funds were abolished under that provision; increases in fees or in other revenue dedicated as described by this section; or increases in fees or in other revenue required to be deposited in a fund or account described by this section.

Provides that this Act does not apply to funds created under an Act of the 84th Legislature, Regular Session, 2015, for which separate accounting is required by federal law, except that the funds shall be deposited in accounts in the general revenue fund unless otherwise required by federal law; trust funds or dedicated revenue deposited to trust funds created under an Act of the 84th Legislature, Regular Session, 2015, except that the trust funds shall be held in the state treasury, with the Comptroller of Public Accounts of the State of Texas (comptroller) in trust, or outside the state treasury with the comptroller’s approval; bond funds and pledged funds created or affected by an Act of the 84th Legislature, Regular Session, 2015, except that the trust funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller’s approval; funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or redeleted by the Texas Constitution under a constitutional amendment proposed by the 84th Legislature, Regular Session, 2015, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters; newly authorized dedication of or use of a dedicated fund, a dedicated account, or dedicated revenue as provided by an Act of the 84th Legislature, Regular Session, 2015, to the extent that such an Act affects a fund, an account, or revenue that was exempted from funds consolidation before January 1, 2015.
Provides that the environmental radiation and perpetual care account created by Section 401.306 (Environmental Radiation and Perpetual Care Account), Health and Safety Code, is re-created by this Act as an account in the general revenue fund, and all revenue dedicated for deposit to the credit of the environmental radiation and perpetual care account by a provision of S.B. 347 (Seliger; SP: Lewis), 83rd Legislature, Regular Session, 2013, is rededicated by this Act for that purpose.

Provides that the Act does not apply to a special fund in the state treasury established by the comptroller for the purpose of holding money received from the federal government as authorized by H.B. 8 (Otto, Ashby; SP: Nelson), or similar legislation of the 84th Legislature, Regular Session, 2015, that becomes law.

Provides that the following accounts and the revenue deposited to the credit of those accounts are exempt from this Act and that the accounts are created or re-created in the general revenue fund: the veterans recovery account; the Texas B-On-time student loan account; the Texas farm and ranch lands conservation fund; the Global Agricultural Innovation Institute account; the hospital perpetual care account; the mathematics and science teacher investment fund; the account in the general revenue fund to which certain fee revenue is deposited by the Texas Medical Board; the wine industry development fund; the professional development account; the compensation to child pornography victims fund; the truancy prevention and diversion fund; and the deferred maintenance fund.

Provides that the following specified funds that are created or re-created inside or outside of the state treasury are exempt from this Act: a separate fund established in the treasury of a political subdivision or maintained by a state law enforcement agency for scholarships for children of peace officers killed in the line of duty; the Texas research university fund, the Texas comprehensive research fund, and the core research support fund; a special fund outside the treasury created to receive certain fees payable to the Texas State Securities Board; the county road oil and gas fund; the permanent fund supporting graduate medical education; a special fund to be maintained by the Texas Appraiser Licensing and Certification Board; the grain producer indemnity fund; and the Texas Department of Motor Vehicles fund.

Provides that the following dedications or rededications of revenue collected for a particular purpose are exempt from this Act, if dedicated or rededicated by an Act of the 84th Legislature, Regular Session, 2015: the dedication of revenue provided by H.B. 14 (Morison, Reynolds; SP: Watson) or similar legislation; the dedication of certain fee revenue provided by H.B. 984 (Deshotel et al.; SP: Creighton) or similar legislation; the dedication of certain revenue consisting of penalties, payments, or civil restitution to the judicial fund; the dedication of voluntary contributions to the fund for veterans' assistance; the dedication of fee revenue to the Texas Department of Motor Vehicles; the dedication of tax revenue imposed under Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, for deposit to the rural volunteer fire department insurance fund; the dedication of certain penalty revenue to the Texas Department of Insurance operating account; the dedication of fee revenue to the Texas Department of Insurance operating account; the dedication of fee revenue to the state highway fund; the dedication of voluntary contributions to the Glenda Dawson Donate Life-Texas Registry fund; the dedication of certain fee revenue to the Texas Mobility Fund; the dedication of voluntary contributions to the fund for veterans' assistance; the dedication of certain money received by the Texas Department of Transportation to the state highway fund; the dedication of tax revenue to the oil and gas regulation and cleanup fund; the dedication of penalty revenue to the compensation to victims of crime fund; the dedication of fee revenue to the state highway fund and the Texas Department of Motor Vehicles fund; the dedication of certain money received by the Texas Department of Transportation to the state highway fund; the dedication of fee revenue to the Texas
Department of Housing and Community Affairs; and the dedication of money received by the Parks and Wildlife Department to the game, fish, and water safety account and the state parks account.

Provides that this Act does not apply to the following new accounts or funds: the account for the receipt of fees for special license plates or for receipt of related revenue, gifts, or grants; the governor's university research initiative fund; the account in the state bullion depository; and the consumer directed health plan account.

Provides that a portion of the fees to be deposited to the state highway fund will be deposited into a special fund in the state treasury outside the general revenue fund to be known as the TexasSure Fund. Provides that the total amount that is to be deposited will be the amount necessary to cover the total amount appropriated to the Texas Department of Insurance from that fund with the remaining fees to be deposited to the state highway fund.

Provides that the following accounts or funds are not available for general government purposes and are not considered available for certification of the budget: the Texas Department of Insurance operating account no. 0036; the lifetime license endowment account no. 0544; the permanent fund for health and tobacco education and enforcement account no. 5044; the permanent fund for children and public health account no. 5045; the permanent fund for emergency medical services and trauma care account no. 5046; the permanent fund for rural health facility capital improvement account no. 5047; the permanent hospital fund for capital improvements and the Texas Center for Infectious Disease account no. 5048; the child abuse and neglect prevention operating fund account no. 5084; the child abuse and neglect prevention trust fund account no. 5085; and the separate fund account of each institution of higher education in the general revenue fund.

**Availability and Use of Certain Dedicated Revenue and Accounts—H.B. 7**

*by Representative Darby et al.—Senate Sponsor: Senator Nelson*

H.B. 7 amends current law relating to the amounts, availability, and use of certain statutorily dedicated revenue and accounts, provides for the dedication and use of certain state revenue, reduces or affects the amounts or rates of certain statutorily dedicated fees and assessments, redesignates the bingo prize fee as a prize tax, and provides for the collection and use of the tax. For more than 20 years, certain unspent dedicated revenue in the general revenue fund has counted toward overall budget certification and these amounts have grown substantially during that time. H.B. 7 amends the amounts, availability, and use of certain statutorily dedicated revenue and accounts and to reduce or affect the amounts or rates of certain statutorily dedicated fees and assessments. H.B. 7 does not make specific appropriations but rather makes the statutory changes necessary to implement decisions made regarding GR-dedicated funds in the General Appropriations Bill. This bill:

- Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to deposit the amounts received from the fee imposed under Section 102.504 (Allocation of Certain Revenue for Sexual Assault Programs), Business and Commerce Code, to the credit of the sexual assault program fund.

- Provides that the Texas Education Agency shall provide each school district approved on a competitive basis under Section 21.703 (Educator Excellence Innovation Fund; Amount of Grant Award), Education
Code, with a grant in an amount determined by the agency in accordance with commissioner of education rule.

Provides that a school district's maintenance and operations tax effort is equal to or less than the rate equal to the sum of the product of the state compression percentage, as determined under Section 42.2516 (Additional State Aid for Tax Reduction), Education Code, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year and any additional tax effort included in calculating the district's compressed tax rate under Section 42.101 (Basic and Regular Allotments), Education Code.

Provides that, for a school district that adopted a maintenance and operations tax rate for the 2005 tax year below the maximum rate permitted by law for that year, the district's compressed tax rate (DCR) includes the portion of the district's current maintenance and operations tax rate in excess of the first six cents above the district's compressed tax rate, until the district's compressed tax rate computed in accordance with this subsection is equal to the state maximum compressed tax rate (MCR). Provides that, for the 2015-2016 and 2016-2017 school years, the board of trustees of a school district that adopted a maintenance and operations tax rate for the 2005 tax year below the maximum rate permitted by law for that year may choose to apply this tax rate to the calculation of the DCR. A board of trustees that chooses to apply this tax rate must notify the commissioner of the decision in writing not later than September 1 of the affected school year.

Provides that any revenue generated by the portion of a district's maintenance and operations tax rate included in calculating the DCR under Section 42.101 (Basic and Regular Allotments), Education Code, and local share under Section 42.252 (Local Share of Program Cost (Tier One), Education Code, is included in determining the amount to which a district is entitled, but may not increase the total amount of revenue per weighted student to which the district is entitled. Provides that for a school district that adopted a maintenance and operations tax rate for the 2005 tax year below the maximum rate permitted by law for that year, the district's tax rate includes the tax effort included in calculating the DCR under Section 42.101.

Requires the commissioner of education to identify amounts appropriated in the General Appropriations Act from the Foundation School Fund to be deposited in the tax rate conversion fund in the general revenue fund. Provides that the amount identified by the commissioner shall be sufficient to provide additional state aid to school districts to which the compressed tax rate modified under Section 42.101 (Basic and Regular Allotments), Education Code, applies, in excess of the level of state aid to which the district would have been entitled had Section 42.101 not taken effect. Provides that, for the purposes of state aid payments to school districts under this chapter, the tax rate conversion fund shall be considered to be used in the same manner as the foundation school fund.

Defines terms relating to the governor's university research initiative, including "advisory board," "distinguished researcher," "eligible institution," "fund," "general academic teaching institution," "governing board," "health-related institution," "office," and "private or independent institution of higher education."

Provides that governor's university research initiative is administered by the Texas Economic Development and Tourism Office (office) within the office of the governor. Requires the office to award matching grants from the governor's university research initiative fund to assist eligible institutions in recruiting distinguished researchers. Authorizes the office to adopt any rules the office considers necessary to administer this grant program.
Authorizes an eligible institution to apply to the office for a matching grant from the fund. Requires the office, before approval or disapproval of a grant application, to consider the recommendation of the advisory board regarding the grant proposal. Requires the office, if the office approves a grant application, to award to the applicant institution a grant amount equal to the amount committed by the institution for the recruitment of a distinguished researcher.

Provides that a grant application must identify the source and amount of the eligible institution's matching funds and must demonstrate that the proposed use of the grant has the support of the institution's president and of the institution's governing board, the chair of the institution's governing board, or the chancellor of the university system, if the institution is a component of a university system. Authorizes an applicant eligible institution to commit for matching purposes any funds of the institution available for that purpose other than appropriated general revenue.

Provides that the office may award grants only to grant proposals that involve the recruitment of distinguished researchers in the fields of science, technology, engineering, mathematics, and medicine. Requires the office to give priority to proposals that: demonstrate a reasonable probability of enhancing Texas' national and global economic competitiveness; demonstrate a reasonable probability of creating a nationally or internationally recognized locus of research superiority or a unique locus of research; are matched with a significant amount of funding from a federal or private source that may be transferred to the eligible institution; are interdisciplinary and collaborative; or include a strategic plan for intellectual property development and commercialization of technology. Authorizes the office to award a grant to a proposal that: supports the recruitment of a distinguished researcher distinguished in, or to be engaged in, basic, translational, or applied research; or proposes the recruitment of a distinguished researcher for new research capabilities of the eligible institution or to expand the institution's existing research capabilities. Provides that the grant proposal should identify a specific distinguished researcher being recruited and that the office may consider: the likelihood that the researcher being recruited will not accept a research position with the applicant eligible institution without the institution's receipt of a matching grant; the extent to which the subject matter of the researcher's research offers the opportunity for interdisciplinary and collaborative research at the applicant eligible institution and with other eligible institutions; and any commercialization track record of the researcher being recruited.

Provides that the governor's university research initiative advisory board is established to assist the office with the review and evaluation of applications for funding of grant proposals and requires the advisory board to make recommendations to the office for approval or disapproval of those applications.

Provides that the governor's university research initiative fund is a dedicated account in the general revenue fund and consists of amounts appropriated or otherwise allocated or transferred by law to the fund and gifts, grants, and other donations received for the fund.

Requires that the comptroller issue a report that itemizes each general revenue-dedicated account and the estimated balance and revenue in each account that is considered available for the purposes of certification of appropriations as provided by Section 403.095 (Use of Dedicated Revenue), Government Code. Requires the comptroller to publish the report on the comptroller's Internet website.

Authorizes the legislature to appropriate money for the use by the attorney general for grants to prevent sex trafficking and to provide services for victims of sex trafficking, including standardizing the quality of
services provided, preventing sexual assault, and improving services to survivors of sexual assault. Authorizes the legislature to appropriate money for the use by any state agency or organization for the purpose of conducting human trafficking enforcement programs and any other designated state agency for the purpose of preventing sexual assault or improving services for victims of sexual assault.

Defines the "state's emerging technology investment portfolio" to mean the equity positions in the form of stock or other security the governor took, on behalf of the state, in companies that received awards under the Texas emerging technology fund and any other investments made by the governor, on behalf of the state, in connection with an award made under the Texas emerging technology fund.

Requires the Texas Treasury Safekeeping Trust Company to manage the state's emerging technology investment portfolio. Requires the trust company to wind up the portfolio in a manner that, to the extent feasible, provides for the maximum return on the state's investment while also ensuring the return of the state's investment. Authorizes the trust company to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing pertinent to each investment. Authorizes the trust company to recover its reasonable and necessary costs incurred in the management of the portfolio, including costs incurred in the retaining of professional or technical advisors, from the earnings on the investments in the portfolio.

Requires any realized proceeds or other earnings from the sale of stock or other investments in the state's emerging technology investment portfolio, less the amount permitted to be retained for payment of its costs for managing the portfolio, to be remitted by the Texas Treasury Safekeeping Trust Company to the comptroller for deposit in the general revenue fund.

Requires the Texas Treasury Safekeeping Trust Company, on final liquidation of the state's emerging technology investment portfolio, to promptly notify the comptroller of that occurrence. Requires the comptroller to verify that the final liquidation has been completed and, if the comptroller so verifies, certify to the governor that the final liquidation of the portfolio has been completed.

Provides that information concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity that was considered for or received an award from the Texas emerging technology fund is confidential unless the individual or entity consents to disclosure of the information. Provides that the following information collected in connection with the Texas emerging technology fund is public information and may include: the name and address of an individual or entity that received an award from the fund; the amount of funding received by an award recipient; a brief description of the project funded by the award; a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that received an award from the fund; and any other information with the consent of the governor, the lieutenant governor, the speaker of the house of representatives, and the individual or entity that received an award from the fund, if the information relates to that individual or entity.

Provides for funds for grants to encourage entities located in an affected county or a nonattainment area to convert heavy-duty vehicles used for municipal solid waste collection into vehicles powered by natural gas engines.
Provides that money in the account attributable to fees imposed under Section 361.138 (Fee on the Sale of Batteries), Health and Safety Code, may be used for environmental remediation at the site of a closed battery recycling facility located in the municipal boundaries of a municipality with a population of greater than 120,000.

Provides that, in order to serve the state purpose of ensuring that the cost of providing ad valorem tax relief to disabled veterans is shared equitably among the residents of this state, a local government is entitled to a disabled veteran assistance payment from the state for each fiscal year that the local government is a qualified local government. Provides that a local government is a qualified local government for a fiscal year if the amount of lost ad valorem tax revenue calculated for that fiscal year is equal to or greater than two percent of the local government’s general fund revenue for that fiscal year.

Provides that the amount of a local government’s lost ad valorem tax revenue for a fiscal year is calculated by multiplying the ad valorem tax rate adopted by the local government under Section 26.05 (Tax Rate), Tax Code, for the tax year in which the fiscal year begins by the total appraised value of all property located in the local government that is granted an exemption from taxation under Section 11.131 (Residence Homestead of 100 Percent or Totally Disabled Veteran), Tax Code, for that tax year.

Provides that a disabled veteran assistance payment made to a qualified local government for a fiscal year is calculated by subtracting from the local government’s lost ad valorem tax revenue calculated for that fiscal year an amount equal to one percent of the local government’s general fund revenue for that fiscal year.

Requires the comptroller to review each application by a local government to determine whether the local government is entitled to a disabled veteran assistance payment. Requires the comptroller to remit the payment from available funds to the qualified local government not later than the 30th day after the date the application for the payment is made if the comptroller determines that the local government is entitled to the payment. Requires the comptroller to transfer funds to a newly created account in the state treasury for the purpose of reimbursement of local governments under this section.

Provides that money in the oil and gas regulation and cleanup fund may be used for costs related to the administration of pipeline safety and regulatory programs.

Amends fee structures and licensing requirements for certain professional occupations.

Authorizes the Department of Public Safety of the State of Texas to use money appropriated to the department from the account to award grants to local law enforcement agencies for training on incident-based reporting systems to be used for reporting information and statistics concerning criminal offenses committed in this state and requires the department to adopt rules governing the award of grants by the department.

Authorizes the comptroller to deposit certain proceeds from certain property taxes to general revenue if the comptroller determines that the unencumbered beginning balance of the physician education loan repayment account established under Chapter 61 (Texas Higher Education Coordinating Board), Education Code, is sufficient to fund appropriations and other direct and indirect costs from that account for the fulfillment of existing and expected physician loan repayment commitments during the current state fiscal biennium.
Limiting the Issuance of Capital Appreciation Bonds—H.B. 114

by Representative Flynn et al.—Senate Sponsor: Senators Hinojosa and Campbell

Capital appreciation bonds are financed for 25 to 30 years without interest for the entire lifetime of the bond in a "borrow now, pay later" strategy. School districts use capital appreciation bonds to meet immediate developments while pushing debt into the future. School districts assume that the bonds will be paid off because the number of taxpayers should increase and the tax base should grow as well. The legislature expressed the need to place parameters around how capital appreciation bonds are utilized while allowing fast-growth school districts to figure out the best way to provide parameters for the bonds, create transparency, and provide flexibility for school districts to pay for capital improvements. This bill:

Defines various terms, including "capital appreciation bond" to mean a bond that accrues and compounds interest from its date of delivery, the interest on which by its terms is payable only upon maturity or prior redemption.

Provides that a county, municipality, special district, school district, junior college district, or other political subdivision may not issue capital appreciation bonds that are secured by ad valorem taxes unless:
- the bonds have a scheduled maturity date that is not later than 20 years after the date of issuance;
- the governing body of the political subdivision has received a written estimate of the cost of the issuance, including the amount of principal and interest to be paid until maturity, the amount of fees to be paid to outside vendors, the amount of fees to be paid to each financing team member; and the projected tax impact of the bonds and the assumptions on which the calculation of the projected tax impact is based;
- the governing body of the political subdivision has determined in writing whether any personal or financial relationship exists between the members of the governing body and any financial advisor, bond counsel, bond underwriter, or other professional associated with the bond issuance; and
- the governing body of the political subdivision posts prominently on the political subdivision's Internet website and enters in the minutes of the governing body:
  - the total amount of the proposed bonds;
  - the length of maturity of the proposed bonds;
  - the projects to be financed with bond proceeds;
  - the intended use of bond proceeds not spent after completion of the projects;
  - the total amount of the political subdivision's outstanding bonded indebtedness at the time of the election on the bonds, including the amount of principal and interest to be paid on existing bond indebtedness until maturity; and
  - the total amount of the political subdivision's outstanding bonded indebtedness, including the amount of principal and interest to be paid until maturity.

Requires the governing body of a political subdivision to regularly update the debt information posted on the political subdivision's Internet website to ensure that the information is current and accurate.

Prohibits capital appreciation bond proceeds from being used to purchase certain items, unless an item has an expected useful life, determined based on the depreciable life of the asset under the Internal Revenue Code of 1986, that exceeds the bond's maturity date.
Provides that capital appreciation bond proceeds unspent after completion of the project identified as the proceeds' intended use may be used only for a use identified on the political subdivision's website, unless another use is approved by the voters of the political subdivision at an election held for that purpose.

 Provides that the total amount of capital appreciation bonds may not exceed 25 percent of the political subdivision's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity.

 Authorizes a political subdivision to extend the maturity date of an issued capital appreciation bond only if the extension of the maturity date will decrease the total amount of projected principal and interest to maturity, or the political subdivision is a school district and the maximum legally allowable tax rate for indebtedness has been adopted and the Texas Education Agency certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

State Bullion Depository—H.B. 483
by Representative Capriglione et al.—Senate Sponsor: Senator Kolkhorst et al.

Demand for the storage of precious metals is high and includes private businesses, individual investors, public institutions, and state agencies. However, precious metals owned by the state are currently stored in other states. Establishment of a Texas bullion depository would provide dedicated storage of precious metal holdings in the State of Texas, reduce reliance on out-of-state facilities, remove much of the uncertainty and safety concerns associated with out-of-state storage, and help insulate assets from unstable market forces. This bill:

Establishes the Texas Bullion Depository (depository) as a state agency in the office of the comptroller of public accounts of the State of Texas (comptroller's office) to serve as the custodian, guardian, and administrator of specified precious metals that may be transferred to or otherwise acquired by the state or an agency, political subdivision, or other instrumentality of the state.

Provides that the depository is administered as a division of the comptroller's office and under the direction and supervision of a bullion depository administrator appointed by the comptroller with the advice and consent of the governor, lieutenant governor, and senate.

Excludes deposits and related assets from availability for legislative appropriation, establishes that depository accounts are not interest-bearing, and authorizes use of the depository by individuals, corporations, financial institutions, and governmental entities.

Requires the depository to use private, independently managed firms and institutions licensed as depository agents as intermediaries to conduct retail transactions in precious metals on behalf of the depository with current and prospective account holders. Creates a depository agent license as a type of money services license, establishes requirements of licensure, and provides for the application of certain Money Services Act provisions to a depository agent.
Investment of a Portion of the Economic Stabilization Fund—H.B. 903
by Representative Capriglione et al.—Senate Sponsor: Senators Van Taylor and Zaffirini

The economic stabilization fund (ESF), commonly referred to as the "Rainy Day Fund," was approved by the voters in 1988 and receives 75 percent of any oil or natural gas production tax revenue that exceeds the amount collected in FY 1987. The money in the ESF, which is managed by Texas Trust, is currently held in highly liquid, low-yield assets and it has yielded returns ranging from 0.38 percent in one year to 0.70 percent over five years. The unintended consequence of this strategy is the loss of the purchasing power of ESF, as the returns are lower than the rate of inflation. The investment strategy could be altered by investing a portion of the funds using the "prudent investor standard" to increase the earnings potential of ESF. This bill:

Requires the comptroller, in a state fiscal biennium, to invest a percentage of the ESF balance in a state fiscal biennium that exceeds the amount of the sufficient balance of the fund adopted under Section 316.092 (Determination of Sufficient Fund Balance), Government Code, for that biennium in accordance with the investment standard described by Section 404.024(j) (Authorized Investments), Government Code. The comptroller's investment of that percentage of the excess balance is not subject to any other limitation or other requirement provided by Section 404.024 (Authorized Investments), Government Code.

Requires that the comptroller adjust the investment portfolio of ESF money periodically to ensure that the balance of the fund is sufficient to meet the cash flow requirements of the fund.

Requires that the comptroller include the fair market value of the investment portfolio of the ESF in calculating the amount in the fund for purposes of Section 49-g(g), Article III, Texas Constitution, and Section 316.093 (Adjustment of Constitutional Allocations to Fund and State Highway Fund), Government Code.

Requirements for Holders of Abandoned Property—H.B. 1454
by Representative Raney et al.—Senate Sponsor: Senator Eltife

Escheatment is the process of identifying a customer's deposit account that is considered abandoned and remitting the funds to the state if the customer cannot be contacted to reactivate the account. After three years of inactivity, if an account holder cannot be contacted, a financial institution must remit the property in question to the comptroller of public accounts of the State of Texas. Current law does not provide for the designation of a financial representative who may be contacted in such cases to speak to the holder on behalf of the property owner regarding the property. This bill:

Authorizes the owner of a bank account, safe deposit box, or share of a mutual fund to designate a financial representative. Requires the comptroller to provide a form for designating a financial representative. Provides that the financial representative does not have any rights to the property.

Requires the property holder (holder), if a bank account, safe deposit box, or mutual fund is presumed to be abandoned and the holder is unable to reach the owner, to notify the financial representative, if one is designated, that the holder may be required to deliver the property to the comptroller if it is not claimed. Provides that the abandonment process ceases immediately if the financial representative is able to communicate the owner's location and verifies that the owner exists and has not abandoned the property.
Requires the holder of the property presumed to be abandoned to include in the property report the last known mailing or e-mail address of the financial representative, if one is provided, and to keep a record of this information.

**Money Transfers From the School Land Board—H.B. 1551**  
*by Representative Howard et al.—Senate Sponsor: Senator Hancock*

H.B. 1551 increases the transparency of the processes of the School Land Board (SLB) in determining discretionary transfers from the real estate special fund to the Available School Fund (ASF) and to the portion of the Permanent School Fund (PSF) controlled by the State Board of Education (SBOE). The Legislative Budget Board (LBB) expressed concern that the unpredictability of money transfers, among other factors, diminishes the information available to the legislature to make appropriation decisions and the ability of SBOE to determine the appropriate contribution rate from PSF to ASF. H.B. 1551 requires SLB to adopt rules to establish a procedure to determine discretionary transfers and to notify the comptroller of public accounts of the State of Texas (comptroller), the LBB, and SBOE of the transfers in order to increase transparency. This bill:

Requires SLB, under Section 51.413 (Transfers from the Real Estate Special Fund Account to the Available School Fund and the Permanent School Fund), Natural Resources Code, to adopt rules to establish the procedure that will be used by the board to determine the date a transfer will be made and the amount of money that will be transferred to the ASF or to SBOE for investment in the PSF from the real estate special fund account.

Adds Section 51.4131 (Report of Anticipated Transfer of Funds), Natural Resources Code, to require SLB to submit to the legislature, comptroller, SBOE, and the LBB a report that, specifically and in detail, states the date a transfer will be made and the amount of money the board will transfer during the subsequent state fiscal biennium from the real estate special fund account of PSF established under Section 51.401 to ASF or SBOE for investment in PSF.

**Banking and Credit Union Development Districts—H.B. 1626**  
*by Representative Johnson et al.—Senate Sponsor: Senator West*

Many Texans live in areas that are underserved by banks and credit unions and have little experience with mainstream financial institutions, which makes them financially vulnerable to payday lenders and check-cashing outlets that charge high fees. Interested parties note that another state has successfully implemented programs that encourage banks and credit unions to open branches in areas where there is a demonstrated need for banking and credit union services. This bill:

Requires the Finance Commission of Texas (finance commission) to administer and monitor a banking development district program to encourage the establishment of branches of a financial institution in geographic areas where there is a demonstrated need for banking services. Requires the finance commission to adopt rules to implement the banking development district program and certain related bill provisions and to adopt rules in consultation with the Texas Economic Development and Tourism Office (office) regarding the criteria for the designation of banking development districts.
Provides that the rules regarding the criteria must require the finance commission to consider:

- the location, number, and proximity of sites where banking services are available in the proposed banking development district;
- consumer needs for banking services in the proposed district;
- the economic viability and local credit needs of the community in the proposed district;
- the existing commercial development in the proposed district; and
- the impact additional banking services would have on potential economic development in the proposed district.

Requires the finance commission to adopt rules governing the designation of banking development districts not later than January 1, 2016.

Authorizes a local government, in conjunction with a financial institution, to submit an application to the finance commission for the designation of a banking development district. Authorizes a financial institution to apply to open a branch in the proposed banking development district at the time the local government submits an application. Requires the finance commission to make a determination regarding whether to approve the application not later than the 120th day after the date an application for the designation of a banking development district is submitted.

Requires the Credit Union Commission (CUC) to administer and monitor a credit union development district program under this chapter to encourage the establishment of branches of a credit union in geographic areas where there is a demonstrated need for services provided by a credit union. Requires CUC to adopt rules to implement this program with respect to credit unions in credit union development districts.

Requires CUC, in consultation with the office, to adopt rules regarding the criteria for the designation of credit union development districts under this subchapter. Requires that the rules require CUC to consider certain criteria set forth.

Authorizes a local government, in conjunction with a credit union, to submit an application to CUC for the designation of a credit union development district. Authorizes a credit union to apply to open a branch in the proposed credit union development district at the time the local government submits an application in conjunction with the credit union. Requires CUC, not later than the 120th day after the date an application for the designation of a credit union development district is submitted to make a determination regarding whether to approve the application.

Authorizes the governing body of a local government in which a banking development district has been designated to by resolution designate a financial institution located in the district as a banking district depository.

Authorizes the governing body of a local government in which a credit union development district has been designated to by resolution designate a credit union located in the district as a credit union district depository.

Requires that such a resolution specify the maximum amount that may be kept on deposit with the banking district or credit union district depository, as appropriate.
Authorizes a local government and the comptroller of public accounts of the State of Texas (comptroller), if the comptroller designates the financial institution or credit union as a state depository, to deposit public funds with a financial institution or credit union designated as a district depository.

Establishing Personal Savings Incentives—H.B. 1628 [VETOED]

by Representative Johnson et al.—Senate Sponsor: Senators Rodriguez and Schwertner

Many Texans lack significant savings and experience with mainstream financial institutions like banks and credit unions. Advocates of H.B. 1628 note that other states have authorized banks and credit unions to implement raffles and prize programs to encourage people to save by entering them in contests for making deposits into their savings accounts. This bill:

Authorizes a financial institution or credit union to conduct a savings promotion raffle in which deposits into a savings account constitute entry into a prize raffle.

Updating Exemptions for Personal Property From Seizure by Creditor—H.B. 2706

by Representative Wray—Senate Sponsor: Senator Rodriguez

The Real Estate, Probate, and Trust Law (REPTL) section of the State Bar of Texas, as part of its ongoing review of the Property Code and developments in case law, found that the law relating to the value of personal property that is exempt from seizure by creditors was last adjusted over 30 years ago. Advocates contend that the exemptions should be raised to reflect the current value of the dollar. This bill:

Provides that personal property is exempt from garnishment, attachment, execution, or other seizure if: the property is provided for a family and has an aggregate fair market value of not more than $100,000, rather than not more than $60,000, or if the property is owned by a single adult, who is not a member of a family, and has an aggregate fair market value of not more than $50,000, rather than not more than $30,000.

Decertification of Certain Certified Capital Companies—H.B. 3031

by Representative Senfronia Thompson—Senate Sponsor: Senator Hancock

The legislature created the Certified Capital Company Program (CAPCO) in 2001 to stimulate job creation through a venture capital program that was financially structured around the issuance of insurance premium tax credits. The CAPCO program is administered by the Texas Treasury Safekeeping Trust Company, a separate, stand-alone organization whose shareholder and director is the comptroller of public accounts of the State of Texas (comptroller). Although nine of the certified capital companies have invested 100 percent of their certified capital, once the companies have completed all of the requirements of the program, there is no legal mechanism for the comptroller to release or decertify the company. This bill:

Authorizes the comptroller of public accounts of the State of Texas to decertify a certified capital company if the comptroller receives a request in writing from the certified capital company stating that the certified capital company has made qualified investments in an amount cumulatively equal to 100 percent of the company’s certified capital.
Trust Management—H.B. 3190
by Representative Villalba—Senate Sponsor: Senator Huffines

The use of trusts has become more complex than in the past and its use in multi-generational wealth planning has become more widespread. Current law allows the originator of a trust to delegate certain responsibilities to an individual other than the designated trustee. This bill:

Establishes that a protector of a trust has all the power and authority granted to the protector by the trust terms and that, if the terms of a trust give a person the authority to direct, consent to, or disapprove a trustee’s actual or proposed investment decisions, distribution decisions, or other decisions, the person is considered to be an advisor and a fiduciary when exercising that authority. Provides that a trustee who acts in accordance with the direction of an advisor under the trust terms is not liable, except in cases of willful misconduct on the part of the trustee so directed, for any loss resulting directly or indirectly from that act.

Appointment of Certain Commissioners—H.B. 3536
by Representative Landgraf—Senate Sponsor: Senator Eltife

Texas Finance Code provides that the appointment of the banking commissioner and the savings and mortgage lending commissioner requires at least five affirmative votes by the Finance Commission of Texas. Interested parties suggest clarifying that commissioner appointments are made by a majority of commission members, since the commission membership was increased to 11 by the 82nd Legislature. This bill:

Removes the specification that the banking commissioner and the savings and mortgage lending commissioner, who are appointed by the Finance Commission of Texas, must be appointed by at least five affirmative votes.

State Banks and Banking Commissioner Authority—H.B. 3555
by Representative Parker—Senate Sponsor: Senator Eltife

Finance Code provisions applicable to the banking commissioner’s authority to take certain enforcement actions are unclear with regard to the subsidiaries of state banks, subsidiaries of state trust companies, and bank holding companies, as well as administrative procedures governing contested cases, cease and desist orders, and removal or prohibition orders. Interested parties contend that changes are needed to clarify such enforcement actions and administrative procedures. This bill:

Provides that subsidiaries of state banks and state trust companies are subject to provisions governing enforcement orders and supervision and conservatorship, as applicable, in the Texas Banking Act and Texas Trust Company Act. Clarifies the application of certain Texas Banking Act enforcement provisions to a bank holding company.

Authorizes the banking commissioner of Texas to informally dispose of a matter within the jurisdiction of and before the banking commissioner under the Texas Banking Act or Texas Trust Company Act.
Regulation of State Trust Companies—S.B. 875
by Senator Eltife—House Sponsor: Representative Flynn

The Texas Department of Banking (DOB) regulates state-chartered banks and trust companies. Interested parties have made the following observations regarding the regulation of state trust companies:

- The current statute establishes $500,000 in restricted capital as the threshold for determining whether a trust company is solvent. This definition does not adequately cover trust companies that administer large amounts of fiduciary assets and are required to maintain restricted capital above the statutory minimum. Current law also does not accommodate exempt trust companies that have been allowed to maintain less than $500,000 in restricted capital.

- Trust companies are required to maintain at least 40 percent of restricted capital in liquid investments. A higher threshold is needed because in the case of insolvency, higher liquidity is crucial to efficiently wind down operations, and if too much time is required to convert illiquid assets into cash, account holders could be further harmed.

- Trust companies are examined by DOB annually. DOB should have discretion to examine trust companies more or less frequently, depending on the current need to protect the interests of account holders.

- Currently, $1 million in restricted capital is required to form a new trust company. Trust companies with exempt status have no current minimum restricted capital requirements. Higher minimum restricted capital amounts ($2 million for new charters, $250,000 for those with exempt status) are needed to ensure that sufficient funds are available in case of unexpected operating losses and providing reasonable means for liquidation should recapitalization not be possible.

- Under current law, trust companies may apply for exempt status if they serve only family members within the fourth degree. A broader reach (seven degrees of a common ancestor) and more specific definitions are needed to address increased life expectancies and more complex family relationships (e.g., former spouses, stepchildren, and foster children).

- Other changes are needed to simplify or strengthen other statutes concerning trust companies with exempt status.

This bill:

- Raises from $1 million to $2 million the minimum restricted capital a state trust company must have to be issued a charter by the banking commissioner of Texas under the Texas Trust Company Act.

- Changes the criteria by which a state trust company is considered insolvent due to insufficient equity capital from less than $500,000 in equity capital, as determined under regulatory accounting principles, to equity capital that is 50 percent or less of the amount of restricted capital the trust company is required to maintain.

- Requires a state trust company with less than the required amount of restricted capital to increase its restricted capital to at least the required amount not later than September 1, 2020, unless the state trust company has a private trust exemption or prior exemption. Specifies that a state trust company is authorized under current law to apply to the banking commissioner for approval of restricted capital in an amount that is less than the required amount. Requires a state trust company with insufficient restricted capital and a prior exemption on September 1, 2015, to increase its restricted capital to at least $250,000 on or before September 1, 2020.
Authorizes the Finance Commission of Texas to adopt rules specifying procedures for ratable increases in restricted capital for state trust companies and for deferrals and extensions of time for a state trust company acting in good faith to achieve the minimum required restricted capital.

Increases from 40 percent to 50 percent the amount of restricted capital a state trust company is required to invest and maintain in investment securities that are readily marketable and can be converted to cash within four business days. Requires a state trust company to comply with these amended investment liquidity requirements not later than September 1, 2016. Authorizes the banking commissioner, on written application, to extend the period for compliance for a state trust company for good cause shown.

Strikes a provision authorizing the banking commissioner to examine a state trust company more often than annually as the commissioner considers necessary, instead providing that the commissioner may examine each state trust company annually or on another periodic basis or as the commissioner considers necessary to safeguard the interests of such stakeholders and to efficiently enforce applicable law. Repeals the commissioner’s authorization to defer an examination for up to six months.

Creates an exception to a provision making a state trust company’s statement of condition and income a public record by providing that such a statement for a state trust company exempt as a private trust or under a prior exemption is not a public record with regard to the period during which the exemption is in effect.

Modifies conditions under which the commissioner is authorized to grant a private state trust company an exemption in whole or in part from specified provisions of the Texas Trust Company Act by changing the standard for making such a determination from a finding that the state trust company does not transact business with the public as specified by statute, to a finding that the trust company:

- has only family clients and transacts business solely on behalf of family clients and their related interests;
- is wholly owned, directly or indirectly, legally or beneficially, by one or more family members; and
- does not hold itself out to the general public as a corporate fiduciary for hire.

Sets forth the persons and entities considered a family client by defining "family member" and "former family member" for such purposes. Authorizes the finance commission to adopt rules defining familial terms governing the statutory exemption. Conforms the sworn statement in the application for such an exemption to the revised standard.

Provides that the certification regarding compliance with the conditions and limitations of the exemption must be filed annually with the exempted state trust company's statement of income, rather than before June 30 each year. Requires the exempted state trust company to maintain records necessary to verify its certification and subjects the records to examination by the banking commissioner.

Strikes a provision that a certification is not valid unless it bears an acknowledgement stamped by the Texas Department of Banking and that a copy of the acknowledged annual certification must be sent to the exempted state trust company.

Strikes provisions prohibiting an exempted state trust company from being sold or transferred with its exempt status, automatically terminating the exempt status on the effective date of transfer, and requiring
the acquiring person to file a separate application to obtain an exemption. Provides instead for the continuation of the exempt status of a state trust company if control of the company is sold or transferred, contingent on the acquiring person filing a certification with the commissioner that the state trust company will comply, or continue to comply, with requirements governing qualification for the exemption after control is transferred.

Authorizes the banking commissioner to examine or investigate the acquiring person and the state trust company as necessary to verify the certification. Requires the banking commissioner to terminate the exemption on the effective date of the transfer if the commissioner determines that the state trust company will not comply or continue to comply with such requirements and requires the acquiring person to file a separate application to obtain a new exemption after the termination. Requires an acquiring person to comply with Texas Trust Company Act provisions that require an application to be filed for approval of such an acquisition.

Prohibits a state trust company that was exempt under a predecessor to current law governing trust companies before September 1, 1997, from continuing to operate with that prior exempt status after the earlier of September 1, 2020, or the date control of the company is sold or otherwise transferred. Authorizes a state trust company to apply for a new exemption as a private trust before the loss of its exempt status.

**Certain Information Obtained by Consumer Credit Commissioner—S.B. 1075**

*by Senator Eltife—House Sponsor: Representative Flynn*

Under current law, the Office of Consumer Credit Commissioner is authorized to obtain criminal history record information about license holders and applicants under statutes contained in the Finance Code and the Government Code. Although the Finance Code applies this authority to any applicant for a license issued by the office or any person licensed under the office’s authority, the Government Code only lists specific applicants and license holders. This bill:

Entitles the consumer credit commissioner to obtain criminal history record information from the Department of Public Safety for applicants or holders of licenses for residential mortgage loan originators, credit service organizations, and debtor assistance.

Entitles the commissioner to obtain criminal history record information relating to an employee of or volunteer with the Office of Consumer Credit Commissioner (OCCC), an applicant for employment with the OCCC, or a contractor or subcontractor of the OCCC.

Clarifies the circumstances in which criminal history record information obtained by the OCCC may be released or disclosed.
Re-creation of Texas Department of Motor Vehicles Fund—S.B. 1512
by Senator Hancock—House Sponsor: Representative Pickett

H.B. 2202 (Pickett, McClendon; SP: Williams), 83rd Legislature, Regular Session, 2013, established a dedicated Texas Department of Motor Vehicles (TxDMV) fund separate from General Revenue (GR) and the State Highway Fund (SHF) in order to end diversions. H.B. 2202 ensured that statutorily-dedicated fees were being used for their intended purposes while providing transparency to funding. H.B. 6 (Otto et al.; SP: Williams), 83rd Legislature, Regular Session, 2013, also known as the funds consolidation bill, did not exempt the TxDMV fund from its provisions, consequently abolishing the fund, resulting in the revenue streams that would have gone into the TxDMV fund being deposited into GR. This bill:

Re-creates the TxDMV fund as a special fund in the state treasury outside the general revenue fund. Provides that all revenue dedicated for deposit to the credit of the TxDMV fund by a provision of H.B. 2202 (Pickett, McClendon; SP: Williams), 83rd Legislature, Regular Session, 2013, is rededicated by this Act for that purpose.

Requires the comptroller of public accounts of the State of Texas (comptroller) to transfer $23 million from the general revenue fund to the credit of the TxDMV fund on September 1, 2016. Requires the comptroller to deposit to the credit of the TxDMV fund only revenue received on or after the effective date of this Act in addition to the aforementioned sum of $23 million.

Issuance Approval for Tax and Revenue Anticipation Notes—S.B. 1657
by Senators Watson and Bettencourt—House Sponsor: Representative Rick Miller

Commercial paper is a short-term debt tool that has been used on rare occasions by the state to assist in the management of the state's cash flow needs. Recent legislation intended to improve the transparency of the Cash Management Committee (CMC) has led the office of the attorney general to determine that the reissuance of commercial paper is no longer permissible. Although commercial paper is rarely used, the comptroller of public accounts of the State of Texas (comptroller) should have the flexibility to use commercial paper if necessary. S.B. 1657 seeks to address this issue by amending current law relating to the approval of the issuance of tax and revenue anticipation notes. This bill:

Redefines "tax and revenue anticipation notes" and "notes" in Section 404.121 (Definitions), Government Code, to mean notes issued under this section, including any commercial paper notes and any obligations under credit agreements entered into by the comptroller in connection with the issuance of the notes.

Authorizes CMC to approve the issuance of notes under certain conditions. Provides that the approval of the issuance of commercial paper notes expires on the last day of the fiscal year for which the tax and revenue anticipation notes are approved, and provides for the issuance and rollover of commercial paper notes during that fiscal year. Requires that commercial paper notes mature and be paid in full in accordance with Section 404.123 (Notes Authorized), Government Code.
Economic Development Measures—H.B. 26
by Representative Button et al.—Senate Sponsor: Senators Fraser and Zaffirini

In addition to promulgating pro-business policies, Texas offers various incentive programs to assist job creation and job retention. Interested parties recommend an expansion of such assistance. This bill:

Establishes the governor's university research initiative (GURI), administered by the Texas Economic Development and Tourism (EDT) Office within the office of the governor, to award matching grants to eligible institutions for the purpose of recruiting distinguished researchers. Requires the submission of a biennial report on grants made from the GURI fund.

Requires the winding up of contracts and awards in connection with the emerging technology fund (ETF). Provides that agreements in place before the bill's effective date are not affected. Designates GURI as the successor to ETF. Requires that royalties, revenue, and other financial benefits received in the future be deposited to the GURI fund. Requires the disclosure of certain public information collected under the ETF program.

Requires the Texas Treasury Safekeeping Trust Company (TTSTC) to manage and wind up the ETF investment portfolio in a manner that provides for the maximum return on the state's investment. Requires TTSTC to notify the comptroller of public accounts of the State of Texas (comptroller) when the final liquidation of the ETF investment portfolio has been completed for the comptroller to verify and certify to the governor. Abolishes ETF upon certification by the comptroller of final liquidation. Requires that all realized proceeds and other earnings from the sale of stock or other investments and associated assets and any balance remaining at final liquidation of ETF be deposited into the general revenue fund, less the amount retained by TTSTC for the cost of managing the portfolio.

Provides that the unencumbered balances of ETF may be appropriated only to: the Texas Research Incentive Program (TRIP); the Texas Research University Fund; GURI; the Texas Enterprise Fund; and the comptroller for expenses incurred in managing the investment portfolio in connection with awards from the former ETF. Abolishes regional centers of innovation and commercialization.

Creates the Economic Incentive Oversight Board (board) and requires the board to: review the effectiveness of certain programs and funds to business entities and other persons; evaluate the benefits and costs to the state, local governments, and residents of the state from the economic development activity; develop a schedule for periodic review of certain state incentive programs; and make recommendations for audits to the Legislative Audit Committee. Requires a biennial report from the board. Entitles the board to reimbursements for certain expenses. Requires the governor's office to provide administrative support and staff to the board.

Shortens the approval period for a proposal for a grant from the Texas Enterprise Fund.

Changes the name of the Major Events Trust Fund to the Major Events Reimbursement Program and bases the reimbursement amount on the prevailing state sales tax.
Preemption of Local Regulations Pertaining to Oil and Gas Operations—H.B. 40
by Representative Darby et al.—Senate Sponsor: Senator Fraser

In the interest of ensuring statewide regulatory consistency with regard to oil and gas operations, this bill:

Provides that the legislature finds that the laws and policy of this state have fostered successful development of oil and gas resources in concert with the growth of healthy and economically vibrant communities for over 100 years. Provides that the legislature acknowledges this cooperative progress and that mutual benefit is derived from the statutes already in effect, which provide effective and environmentally sound regulation of oil and gas operations that is so comprehensive and pervasive that the regulation occupies the field, while facilitating the overriding policy objective of this state of fully and effectively exploiting oil and gas resources while protecting the environment and public health and safety. Provides that the legislature recognizes that in order to continue this prosperity and the efficient management of a key industry in this state, it is in the interest of this state to explicitly confirm the authority to regulate oil and gas operations in this state. Provides that the legislature intends that this Act expressly preempt the regulation of oil and gas operations by municipalities and other political subdivisions, which is impliedly preempted by the statutes already in effect.

Defines "commercially reasonable" and "oil and gas operation."

Provides that an oil and gas operation is subject to the exclusive jurisdiction of this state. Prohibits a municipality or other political subdivision, except as explicitly provided, from enacting or enforcing an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision.

Provides that the authority of a municipality or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a municipality may enact, amend, or enforce an ordinance or other measure that:

- regulates only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;
- is commercially reasonable;
- does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and
- is not otherwise preempted by state or federal law.

Provides that an ordinance or other measure is considered prima facie to be commercially reasonable if the ordinance or other measure has been in effect for at least five years and has allowed the oil and gas operations at issue to continue during that period.

Barbering and Cosmetology at Certain Events—H.B. 104
by Representatives James White and Israel—Senate Sponsor: Senator Eltife
Barbers and cosmetologists often offer their services to participants who are preparing for a special event, such as a wedding. There is concern, however, that provision of these services at a location other than a licensed facility could be problematic under the law. It is noted that offering such services at a place other than a licensed facility would better serve clients. This bill:

Authorizes a person who holds a license, certificate, or permit associated with the barbering or cosmetology profession to perform a service within the scope of the license, certificate, or permit at a location other than a licensed facility for a client in preparation for and at the location of a special event, including a wedding.

**Executory Contract for the Conveyance of Real Property—H.B. 311**
*by Representative Canales—Senate Sponsor: Senator Lucio*

Executory contracts for the sale of residential property have long been disfavored because they are poorly understood by consumers, who are vulnerable to potentially abusive transactions under which legal title to homestead property may be withheld until many years after the buyer has built a home and made other expensive improvements. Even with recent legislative efforts to discourage the use of these instruments, serious problems arising from their use, including eviction of purchasers whose contractual rights have not been legally terminated, persist. Significant misunderstandings remain among sellers, buyers, and even judges and attorneys about the nature of executory contracts and about the rights and obligations of the various parties to such instruments. This bill:

Limits a seller's ability to enforce certain remedies under an executory contract for conveyance of real property, creates liability for failing to record an executory contract, and specifies the effect of a recorded executory contract related to legal title of the property.

Adds to the limitations on a seller's authority to exercise the remedy of rescission or of forfeiture and acceleration the condition that an executory contract has not been recorded. Prohibits a seller from enforcing the remedies of rescission or of forfeiture and acceleration after the contract has been recorded.

Provides that in the event the purchaser defaults and the executory contract has been recorded, regardless of the amount the purchaser has paid, the seller may conduct a sale through a trustee to sell the purchaser's interest in the property.

Creates liability for sellers who fail to record an executory contract within 30 days after the contract is executed. Provides that the damages may not exceed the value of the property or the amount paid under the contract, whichever is greater.

Provides that on recording, an executory contract conveys legal title to the purchaser, subject to a lien retained by the seller for the amount of the unpaid contract price, less any lawful deductions.

Authorizes a purchaser, as under current law, to convert an interest in the property under an executory contract into recorded, legal title at any time and without paying penalties or charges of any kind, regardless of whether the seller has already recorded the executory contract. Specifies that this condition does not limit the purchaser's equitable interest in the property or other rights of the purchaser.
Employment Applications Through TWC Online System—H.B. 426
by Representatives Howard and Geren—Senate Sponsor: Senator Schwertner

State agencies are required to list job openings with the Texas Workforce Commission (TWC); however, state agencies are not required to accept applications from the TWC-maintained online application system, WorkInTexas.com. Such inconsistency obstructs the efforts of qualified applicants, who must reduplicate the application process through WorkInTexas.com and other agency-specific systems. By requiring all state agencies, excluding institutions of higher education and university systems, to accept applications through the WorkInTexas.com website, H.B. 426 streamlines the employment application process for employment opportunities with state agencies and further enables agencies to attract highly-qualified employees. This bill:

Requires that all state agencies, excluding institutions of higher education and university systems, accept employment applications submitted via the WorkInTexas.com website, which is maintained by TWC.

Requires that TWC allow an applicant to create a single state employment application, prescribe a standard electronic format for such applications, and ensure that applicants may submit and state agencies receive such applications.

Provides that, although required to accept applications submitted via WorkInTexas.com, state agencies may continue to accept employment applications from other sources.

Sale or Transfer of Law Enforcement Vehicles—H.B. 473
by Representatives Giddings and Guillen—Senate Sponsor: Senator Menéndez

Current law authorizes the sale or transfer of marked patrol cars or other law enforcement vehicles. However, there is no statutory requirement for removing any law enforcement equipment or insignia prior to a sale or transfer. This could result in the public mistaking such decommissioned vehicles for official law enforcement vehicles. This bill:

Prohibits a state agency or political subdivision from selling or transferring a marked law enforcement motor vehicle to:

- the public, without first removing any equipment or insignia that could mislead a reasonable person to believe that the vehicle is a law enforcement motor vehicle; or
- a security services contractor, without first removing each emblem or insignia that identifies the vehicle as a law enforcement motor vehicle.

Mixed Beverage Permits for Certain County-Owned Facilities—H.B. 601
by Representative Clardy—Senate Sponsor: Senator Nichols

The city of Nacogdoches approved the legal sale of all alcoholic beverages, including mixed beverages, in the city precincts in which the Nacogdoches County Exposition and Civic Center facilities are located. Although the facilities are partially located in the city of Nacogdoches, there are adjacent buildings that are
located outside of the municipality’s boundaries. Nacogdoches County wants to have the civic center considered as a single facility for the purpose of alcoholic beverage licensing so that the county can operate under the same rules. This bill:

Provides that, notwithstanding any other law, all buildings comprising the Nacogdoches County Exposition and Civic Center may be designated as and considered the licensed premises for purposes of a mixed beverage permit covering the facility.

**Right to Express Breast Milk in the Workplace—H.B. 786**  
*by Representative Walle et al.—Senate Sponsor: Senator Zaffirini et al.*

Current law does not offer adequate legal protection to salaried employees who return to work after maternity leave and want to continue breastfeeding, even with the recent changes to the federal Fair Labor Standards Act relating to nursing mothers. Scientific studies have shown that breastfeeding provides many health benefits to babies and nursing mothers, and the parties stress the importance of allowing nursing mothers to express breast milk at certain intervals during the workday to maintain the milk production. There are many related employer benefits to allowing this practice, including helping to prevent employee absenteeism due to sick children, improving workplace morale and productivity, and lowering health care costs for employers. This bill:

Entitles a public employee to express breast milk in the workplace and requires public employers to make certain accommodations for those employees.

Requires a public employer to develop a written policy on the expression of breast milk by employees stating that the public employer must support the practice of expressing breast milk and make reasonable accommodations for the needs of employees who express breast milk. Requires a public employer to provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk and provide a place, other than a bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk. Prohibits a public employer from suspending or terminating the employment of, or otherwise discriminating against, an employee because the employee has asserted the employee’s right to express breast milk in the workplace.

**Forms of Payment at a Vehicle Storage Facility—H.B. 804**  
*by Representative Geren—Senate Sponsor: Senator Seliger*

Under current law, a vehicle storage facility must accept payment by electronic check, debit card, or credit card for any charge associated with delivery or storage of a vehicle. However, certain statutory language may be interpreted to allow vehicle storage facility operators to refuse certain forms of payment that are included in the language. Concerned parties assert that such refusal may prevent individuals from paying in a timely manner and allow vehicle storage facility operators to keep vehicles longer and charge excessive storage fees. This bill:

Adds a cash payment to the forms of payment that an operator of a vehicle storage facility is required to accept for any charge associated with delivery or storage of a vehicle.
Removes a payment made with an electronic check from the forms of payment that an operator of a vehicle storage facility is required to accept for any charge associated with delivery or storage of a vehicle.

**Hours of Sale of Alcoholic Beverages at Package Stores—H.B. 824**  
*by Representative Kuempel—Senate Sponsor: Senator Eltife*

Current law authorizes liquor stores to make sales until 9 p.m. on days of operation. Interested parties note that the Texas Alcoholic Beverage Commission has an informal policy that allows a customer to complete a purchase if the customer is in a store before 9 p.m. but has not completed a purchase by that time. These parties have expressed concerns regarding the lack of a statutory mechanism authorizing this type of sale. This bill:

Authorizes a package store permittee to allow a customer who has entered a package store during hours in which the package store is authorized to sell alcohol and is still in the store at the time the hours of legal sale end to remain in the store for a reasonable amount of time to finish shopping and to authorize the permittee to sell an alcoholic beverage to that customer even though the sale occurs after the designated end of the hours of legal sale.

**Eligibility to Receive Unemployment Compensation Benefits—H.B. 931**  
*by Representative Murphy—Senate Sponsor: Senators Bettencourt and Zaffirini*

Current law requires payment of the waiting week claim after three weeks' worth of unemployment insurance (UI) benefits have been paid to the claimant in a given benefit year. As a result, the law incentivizes unemployed individuals to remain out of work for at least four weeks because they will be paid double for the fourth week of unemployment. Unemployed individuals are thus discouraged from reporting new employment in order to continue UI payments, resulting in overpayments by the Texas Workforce Commission (TWC). H.B. 931 makes the waiting week benefit payment payable if an individual has been totally or partially unemployed for at least seven consecutive days and has returned to full-time employment, or if an individual has exhausted the regular benefits for the current year, other than benefits applicable to the waiting period. This change incentivizes claimants to report new employment, thus preventing overpayments by TWC. This bill:

Provides that an individual is eligible to receive benefits on the individual's waiting period claim if the individual has been paid benefits in the individual's current benefit year equal to or exceeding two times the individual's benefit amount and:
- has returned to full-time employment after being totally or partially unemployed for at least seven consecutive days; or
- has exhausted the individual's regular benefits for the current benefit year, other than benefits applicable to the waiting period.

Deletes existing text providing that an individual who has been paid benefits in the individual's current benefit year equal to or exceeding three times the individual's benefit amount, is eligible to receive benefits on the individual's waiting period claim.
State Consumer-Directed Health Plan—H.B. 966
by Representative Crownover et al.—Senate Sponsor: Senators Hancock and Campbell

Chapter 1551, Insurance Code, establishes the Texas Employees Group Benefits Act, which provides insurance coverage including health benefits for state employees and their dependents. Some parties state that one effective way to combat the increasing cost of health insurance is to offer employees a consumer-directed health plan that would combine a high deductible health plan (HDHP) and a health savings account (HSA). This bill:

Adds Subchapter J (State Consumer-Directed Health Plan) to Chapter 1551:
- Provides that the state consumer-directed health plan (plan) is established for the benefit of eligible individuals and their dependents.
- Authorizes the board of trustees (board) of the Employees Retirement System of Texas (ERS) to adopt rules necessary to administer this subchapter.
- Requires the board to:
  - establish HSAs and finance a self-funded HDHP meeting certain specified criteria;
  - provide information regarding the option to participate in the plan; and
  - ensure that the HSAs are qualified for appropriate federal tax exemptions.
- Sets forth the qualifications for the account administrator selected to administer HSAs.
- Provides that the account administrator is the fiduciary of HSA plan enrollees.
- Authorizes certain eligible individuals to choose to participate in the plan.
- Provides that participation in the plan qualifies a plan enrollee to receive a contribution to an HSA.
- Provides that the board has exclusive authority to determine an individual's eligibility to participate in the plan and may adopt rules regarding eligibility.
- Provides that a plan enrollee may obtain coverage for the enrollee's dependents in the plan in the manner determined by the board.
- Requires a plan enrollee electing to obtain dependent coverage to pay any required contribution.
- Provides that amounts contributed by a plan enrollee may be:
  - used to pay the cost of coverage in the HDHP not paid by the state; or
  - allocated by the board of trustees to an enrollee's HSA.
- Requires the state, for each plan enrollee and dependent, to contribute annually the state contribution that would otherwise be made for basic coverage for the enrollee to a HDHP in the amount that is necessary to pay the cost of coverage. The state contribution for an enrollee cannot exceed the amount the state annually contributes for a full-time or part-time employee, as applicable, who is covered by the basic coverage.
- Authorizes the board, for each plan year, to determine the amount of allocation of the state's contribution, if any, to an enrollee's HSA that would otherwise be made for basic coverage for the enrollee and that remains after payment for coverage in the HDHP.
- Provides that the amount of any allocations, in the aggregate, may not exceed the sum of the monthly limitations imposed by federal law for HSAs.
- Sets forth the contributions by a plan enrollee to the HDHP and HSA.
- Provides that the board has exclusive authority to determine the eligibility of a plan enrollee to participate in any flexible spending account that is part of a cafeteria plan offered under this chapter.
- Provides that a plan enrollee may not participate in any flexible spending account that would disqualify the enrollee's HSA from favorable federal tax treatment.
• Exempts the state contributions to HDHPs and HSAs from execution and assignment.
• Prohibits the board from dividing the self-funded risk pool of the group benefits program.
• Requires ERS to:
  o develop the plan during the state fiscal biennium beginning September 1, 2015, with coverage beginning September 1, 2016;
  o not later than July 31, 2016, provide written information to individuals eligible to participate in the plan;
  o develop and implement the HSA program in as revenue-neutral a manner as possible;
  o study the implementation of the plan to determine specific factors, such as actuarial impact and health care utilization rates; and
  o not later than January 1, 2020, report to the governor, the lieutenant governor, the speaker of the house of representatives, and members of the legislature the results of the study.

Sale by Package Stores of Small Containers of Liquor—H.B. 1039
by Representative Geren—Senate Sponsor: Senator Seliger

Interested parties contend that current law requiring containers of liquor with a capacity of less than six fluid ounces offered for sale in a package store to be sold in units of sealed packages of multiple bottles of liquor is cumbersome for consumers who want to sample a smaller product. This bill:

Strikes a provision requiring that containers of liquor with a capacity of less than six fluid ounces offered for sale in a package store be sold in units of sealed packages featuring multiple bottles of liquor.

Membership of Electrical Safety and Licensing Advisory Board—H.B. 1077
by Representative Kuempel—Senate Sponsor: Senator Campbell

The Electrical Safety and Licensing Advisory Board makes policy recommendations relating to the on-premises sign industry to the Texas Commission of Licensing and Regulation. The board has designated positions for master electricians and journeyman electricians, but there is concern that the board lacks a designated position for a master sign electrician. This bill:

Includes one master sign electrician member on the Electrical Safety and Licensing Advisory Board.

Benefits for Spouses of First Responders Killed in Line of Duty—H.B. 1094
by Representative Geren et al.—Senate Sponsor: Senator Eltife

Under current law, the Texas Workers' Compensation Act entitles eligible spouses to receive death benefits for life or until remarriage, at which point the spouse is entitled to continue to receive 104 weeks of death benefits. Interested parties assert that a survivor of a first responder who paid the ultimate sacrifice in the line of duty should not be penalized for remarrying. This bill:

Provides that, notwithstanding Section 408.183(b) (providing that an eligible spouse is entitled to receive death benefits for life or until remarriage, at which time the eligible spouse is entitled to receive 104 weeks
of death benefits), Labor Code, an eligible spouse who remarried is eligible for death benefits for life if the employee was a first responder, as defined by Section 504.055 (Expeditied Provision of Medical Benefits for Certain Injuries Sustained by First Responder in Course and Scope of Employment), Labor Code, who suffered death in the course and scope of employment or while providing services as a volunteer.

**Sexual Harassment Protection for Unpaid Interns—H.B. 1151**  
by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Garcia

A recent federal court ruling in a suit relating to sexual harassment of an unpaid intern established that there was no claim because the law only protects paid employees. This result led to the enactment of legislation in a number of states to protect unpaid interns from sexual harassment. Lack of certain legal protections for unpaid interns may leave the door open for employers to take advantage of this vulnerable workforce group in Texas. H.B. 1151 seeks to address this concern. This bill:

Provides that an employer commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the employer or the employer's agents or supervisors knew or should have known that the conduct constituting sexual harassment was occurring and failed to take immediate and appropriate corrective action.

Provides that an individual is considered to be an unpaid intern of an employer if:
- the individual's internship, even though it includes engagement in the employer's operations or the performance of productive work for the employer, is similar to training that would be given in an educational environment;
- the individual's internship experience is for the individual's benefit;
- the individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;
- the employer does not derive any immediate advantage from the individual's internship activities and on occasion the employer's operations may be impeded by those activities;
- the individual is not entitled to a job at the conclusion of the internship; and
- the individual is not entitled to wages for the time spent in the internship.

**Provisional License to Practice Funeral Directing or Embalming—H.B. 1219**  
by Representatives Raymond and Keough—Senate Sponsor: Senator Watson

Under current law, a person must hold a provisional license and complete an apprenticeship before becoming a licensed funeral director or embalmer. However, a person must be a graduate of or enrolled in an accredited school or college of mortuary science to be eligible to apply for a provisional license.

This restriction prevents those who are interested in pursuing a mortuary science career from ensuring they are truly committed to this goal before dedicating significant time and money to complete the educational requirements. Recent studies show that there is a high dropout rate in mortuary science schools across the country, primarily because of the mental toll the profession can take on inexperienced students. Furthermore, it prevents applicants from earning money in the field that they could then apply to mortuary school expenses. This bill:
Requires the Texas Funeral Service Commission (TFSC) to waive the requirement that an applicant for a funeral director or embalming provisional license either be enrolled in or a graduate of an accredited school of mortuary science and to issue a provisional license if the applicant was otherwise qualified. Provides that the waiver may not exceed 12 months, and that the provisional license expires at the end of the waiver period. Requires an applicant to submit to a criminal background check before submitting an application for a license.

Decreases the number of cases with which a provisional license holder is required to assist to 45 from 60. Requires TFSC to prescribe by rule case reporting requirements and case report forms for provisional license holders.

Requires provisional license holders, when conducting funeral arrangements, to disclose to family members and other people involved in the funeral arrangements that the license holder has a provisional license and works under the personal supervision of a licensed funeral director.

Requires a provisional license holder, during the provisional license term, to work at a funeral establishment or commercial embalming facility licensed by TFSC and under the direct and personal supervision of a funeral director or embalmer. Requires TFSC to cancel the provisional license if this requirement is not met.

Provides that, after completing the provisional license program, applicants are eligible for a standard license if they also meet other existing requirements. Provides that a provisional license holder who is otherwise eligible for a standard license and who has completed the provisional license program may receive a license regardless of the provisional license’s expiration date.

Provides that a provisional license is valid for 12 consecutive months and may be renewed once for no longer than an additional 12 months. Requires TFSC to cancel a provisional license if the provisional license holder fails to complete the program within 24 consecutive months. Provides that if TFSC waives the provisional license education requirements for any period of time, the provisional license holder may renew the license for no more than 24 months and is required to complete the provisional license program within 36 consecutive months.

Entitles a provisional license holder who does not complete the program within the prescribed period to reapply for a provisional license one time. Requires the provisional license holder to comply with the same requirements as the original application, and provides that cases performed under a previous provisional license program may not count towards the new provisional license program. Authorizes TFSC to adopt rules to allow for an exception if the provisional license holder requests a hardship exemption.

Entitles a provisional license holder whose provisional license was canceled by TFSC for failure to renew the license and pay the associated penalty to apply for reinstatement. Requires the applicant to reapply by the date the license would have expired if it had been renewed, and provides that the applicant is not be allowed to work as a funeral director or embalmer while the license is suspended or canceled.

Transfer of Compensation Experience—H.B. 1251
by Representative Alvarado et al.—Senate Sponsor: Senators West and Nichols
Businesses pay an unemployment insurance tax rate made up of different components, including a compensation experience-rated portion, which is based on the benefits that have been paid to employees of the company and charged to the company's account. This part of the tax can increase drastically when a business lays off employees who claim unemployment compensation.

Typically, when a franchisee acquires a new franchise location, they incur the compensation experience rate of the franchisor, which may be higher than their own. State law allows a franchisee to receive a lower rating, known as a partial transfer of the franchisor's compensation experience, if certain requirements are met. One such requirement is that the franchisor cannot have a substantial ownership interest in the new franchise. Some franchise agreements allow the predecessor business to retain some reversionary interest in the new franchise; however, the law is unclear whether a reversionary interest constitutes a "substantial ownership interest." H.B. 1251 clarifies that "common ownership" does not include those situations in which the predecessor of a business retains a reversionary interest. This bill:

Provides that, following a partial acquisition of an organization, trade, or business of an employing unit, substantially common ownership does not exist solely because the predecessor employing unit has the right to repossess the part acquired by the successor employing unit in the event of the successor's failure to complete a condition of the acquisition.

Authorizes the predecessor employer and successor employer, in the case of a partial acquisition for which the transfer of compensation experience is required under Section 204.083 (Acquisition of All or Part of Experience-Rated Organization, Trade, or Business; Transfer of Compensation Experience), Labor Code, to jointly submit, not later than the second anniversary of the date the partial acquisition was completed, information necessary for making the determination described by Subsection (a) (relating to partial acquisition for the transfer of compensation experience). Requires that the period for which the information is submitted be the lesser of four years or the length of time the predecessor employer was liable for the payment of a tax under this subtitle.

Requires the Texas Workforce Commission (TWC) to include information about the availability of a partial transfer of compensation experience with the information provided by TWC to each new employer and on any form, including in electronic format, required to be submitted by an employer to report a change of status.

**Deceptive Trade Practices—H.B. 1265**

*by Representative Wu et al.*—*Senate Sponsor: Senator Eltife*

Concerns have recently been raised regarding the following deceptive trade practices:

- There are certain businesses that swindle money from victims by mailing solicitations that imitate government forms, many of which suggest the imposition of a criminal penalty if the recipient fails to remit a payment for a good or service.
- The distribution of certain synthetic substances that mimic the physiological effects of controlled substances has increased in recent years. Legislators and law enforcement have attempted to solve the problem by treating the products as contraband, but this approach has not been effective because the producers of synthetic substances simply alter the chemical makeup of their product.
once the chemical has been identified as a controlled substance. In order to find a new approach to dealing with this problem, it has recently been asserted that sellers of synthetic drugs engage in false, deceptive, and misleading acts and practices in the course of trade and commerce, since they are misleading consumers that these products are safe and legal.

- There is an emerging industry in Texas of certain public insurance adjusters taking advantage of homeowners insurance claims for significant personal financial gain. These public insurance adjusters simply act as conduits for lawyers. They have no intention of adjusting a claim, but instead immediately refer their property owner clients to a lawyer. In fact, some public adjusters ask the homeowner to sign a lawyer contract simultaneously with execution of the public adjuster contract that provides the lawyer with a 30 to 40 percent contingency fee payable out of any insurance proceeds obtained. This practice has the effect of increasing the cost of premiums for all Texans.

This bill:

- Adds certain practices to the list of acts that are considered false, misleading, or deceptive under the Deceptive Trade Practices-Consumer Protection Act:
  - delivering or distributing a solicitation in connection with a good or service that:
    - represents that the solicitation was sent on behalf of a governmental entity; or
    - resembles a governmental notice or form that represents or implies that a criminal penalty will be imposed if the recipient does not pay for the good or service;
  - delivering or distributing a solicitation in connection with a good or service that resembles a check or other negotiable instrument or invoice, unless that portion of the solicitation includes the following notice, clearly and conspicuously printed in at least 18-point type: "SPECIMEN—NON-NEGOTIABLE";
  - making a deceptive representation about a synthetic substance or causing misunderstanding as to the effects of a synthetic substance in the production, sale, distribution, or promotion of a synthetic substance that produces and is intended to produce an effect when consumed or ingested similar to, or in excess of, the effect of a controlled substance or controlled substance analogue; and
  - a licensed public insurance adjuster directly or indirectly soliciting employment for an attorney, or a licensed public insurance adjuster entering into a contract with an insured for the primary purpose of referring the insured to an attorney without the intent to actually perform the services customarily provided by a licensed public insurance adjuster.

Approval of Certain Alcoholic Beverages by TABC—H.B. 1348
by Representative Geren—Senate Sponsor: Senator Eltife

A recent study determined that the Texas Alcoholic Beverage Commission (TABC) was duplicating work done by the United States Alcohol and Tobacco Tax and Trade Bureau (TTB) in regard to the testing and labeling of wine and spirits, which resulted in the Texas Legislature amending the Alcoholic Beverage Code to require TABC to approve distilled spirits or wine for shipping on registration of a certificate of label approval issued by TTB. Interested parties have noted instances where an approved label conflicts with other state laws, such as copyright laws, and have expressed concern that TABC does not have the legal authority to deny a label approval. This bill:
Requires TABC, on registration of a certificate of label approval issued by TTB, to approve the product under Section 101.67 (Prior Approval of Distilled Spirits and Wine), Alcoholic Beverage Code, and issue a letter to that effect to the permittee.

Prohibits TABC from requiring additional approval for the product unless there is a change to the label or product that requires reissuance of the federal certificate of label approval.

Requires TABC to accept the certificate of label approval as constituting full compliance only with any applicable standards adopted under Section 5.38 (Quality and Purity of Beverages), Alcoholic Beverage Code, regarding quality, purity, and identity of distilled spirits or wine.

**Denial of Compensation Claims of First Responders—H.B. 1388**

*by Representative Bohac—Senate Sponsor: Senator Creighton*

Currently, certain compensation benefits are provided to firefighters and emergency medical technicians. Under current law, certain medical conditions are presumed to be work-related if certain conditions are met. However, a governmental entity may rebut the presumption if one or more of the elements necessary to establish the presumption is missing or if it can be shown that a factor not associated with the individual's employment caused the disease. Some interested parties assert that such rebuttals may be made based on little or no evidence. This bill:

Requires that a rebuttal include a statement describing in detail the evidence that the person reviewed before making the determination that the individual's disease or illness was the result of a cause not associated with the individual's service.

Requires that an insurance carrier's notice of refusal to pay benefits for a claim resulting from disability or death to which the presumption is applicable include a statement by the carrier that:
- explains the reasons that the carrier determined that a presumption does not apply to the claim; and
- describes the evidence that the carrier reviewed in making the determination.

**Definition of Health Care Liability Claim—H.B. 1403**

*by Representative Sheets et al.—Senate Sponsor: Senator Estes*

The Texas Supreme Court (supreme court), in *Texas West Oaks Hospital, L.P., v. Williams*, 371 S.W.3d 171 (Tex. 2012), held that a health care liability claim could include an employee's workers' compensation claim against an employer for a workplace injury. The supreme court dismissed the claimant's case based on the claimant's failure to provide an expert report as required for a health care liability claim under the state's Medical Liability and Insurance Improvement Act (Act). Some parties contend that the Act was not intended to include a workers' compensation claim as a health care liability claim. This bill:

Amends the definition of "health care liability claim" under the Civil Practice and Remedies Code to exclude a cause of action brought under certain provisions of the Texas Workers' Compensation Act.
Continuation and Functions of the Texas Workforce Investment Council—H.B. 1606  
_by Representative Burkett et al.—Senate Sponsor: Senator Hinojosa_

The Texas Workforce Investment Council (council) is a 19-member board that assists the governor and the legislature with strategic planning for and evaluation of the Texas workforce system. Housed in the Office of the Governor, the council includes representatives from business, labor, education, community-based organizations, and related state entities. The council serves as the State Workforce Investment Board, a requirement under the federal Workforce Investment Act of 1998. Additionally, the council provides staff support for the Texas Skill Standards Board, a board created by the legislature to develop a statewide system of skill standards for occupations with strong employment and earnings opportunities, but requiring less than a baccalaureate degree. The council is subject to the Texas Sunset Act and will be abolished on September 1, 2015, unless continued by the legislature. The Sunset Advisory Commission (Sunset) concluded that the council’s functions are needed and that it could easily take on the remaining duties of the Texas Skill Standards Board. This bill:

Amends Section 2308.005, Government Code, to provide that, unless continued in existence as provided by Chapter 325 (Texas Sunset Act), the council is abolished September 1, 2027, rather than September 1, 2015. Requires the council to be reviewed during the period in which the Texas Workforce Commission is reviewed.

Requires the council to provide advice to the governor and the legislature on the development of a statewide system of industry-defined and industry-recognized skill standards and credentials for all major skilled occupations that provide strong employment and earnings opportunities in this state and require less than a baccalaureate degree. Sets forth the duties of the council regarding the statewide system.

Establishing Crowdfunding Rules—H.B. 1629  
_by Representative Johnson et al.—Senate Sponsor: Senator West_

Crowdfunding is a method of obtaining capital investment by companies or projects from many people, typically via the Internet. Advocates for H.B. 1629 note that federal and state programs that provide loans to small business are often inadequate and that crowdfunding laws and regulations in other states have helped individuals and businesses raise capital. This bill:

Requires the State Securities Board to adopt rules to regulate and facilitate online intrastate crowdfunding for certain small business development entities.

Experience-Rated Employer’s Eligibility for a Surplus Credit Rate—H.B. 1657  
_by Representative Vo—Senate Sponsor: Senator Lucio_

It has been reported that current law is in error regarding an unemployment insurance tax rate computation date as the date relates to the unemployment compensation fund and the use of the fund by the Texas Workforce Commission in paying outstanding bond obligations or in providing a surplus credit for experience-rated employers. Interested parties contend that this error burdens employers and does not reflect the intent of the law. This bill:
Amends Section 204.0652(d), Labor Code, to prohibit an employer from receiving a surplus credit rate if any delinquent contributions are due on the computation date, rather than the contribution date, but provides that the employer is eligible for a surplus credit rate beginning on the calendar quarter following the quarter in which the delinquent contributions are paid.

Texas Emergency Services Retirement System—H.B. 1707
by Representatives Stephenson and Guillen—Senate Sponsor: Senator Huffman

Cities and other local governments that make contributions to the Texas Emergency Services Retirement System (TESRS) are currently only authorized by statute to pay by electronic funds transfer or paper check. Municipalities would like the option to pay by automated clearinghouse (ACH) or wire transfer. The limitation on electronic payment options results in inefficiency at the state and local level. This bill:

Expands the payment methods for contributions to TESRS to include by wire transfer or as an ACH withdrawal.

Texas Emergency Services Retirement System Pension Boards—H.B. 1725
by Representative Stephenson—Senate Sponsor: Senator Huffman

The Texas Emergency Services Retirement System (TESRS) structure includes local pension boards (LPBs) for all volunteer fire departments. Under current law, three members of an LPB must be active members of TESRS. However, some local fire departments may be too small to meet this requirement. This bill:

Requires the governing board of a participating department, or the political subdivision if there are no other members of the local board, to select one or more trustees to serve on an LPB if that department does not have a sufficient number of active members to serve on the LPB.

Requires a person selected to serve as a trustee to be:
- a retiree of the pension system; or
- a beneficiary of the pension system who is the surviving spouse of a former member or retiree.

Firefighters Retirement System—H.B. 1756
by Representative Eddie Rodriguez et al.—Senate Sponsor: Senator Watson

The Austin Firefighters Relief and Retirement Fund (fund) provides retirement, disability, and death benefits to its members and beneficiaries. The fund's governing statute, Article 6243e.1, Vernon's Texas Civil Statutes, needs updating to address administrative issues. This bill:

Authorizes the board of trustees (board), if only one firefighter or retiree is nominated for a position on the board, to appoint the sole nominee, instead of holding an election.
Requires the board to adopt procedures for the appointment of a sole nominated candidate.

Authorizes the board to adopt rules to establish procedures for and requirements governing certain member's designation of a beneficiary.

Authorizes the board to adopt rules modifying the availability of certain distributions, provided that the modifications do not:

- impair certain distribution rights; or
- cause distributions to occur later than required under the Internal Revenue Code of 1986.

Clarifies provisions regarding distributions if a member dies before distribution of the member's entire account.

Clarifies the period used for determining the percentage increase in the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor to be used in order to calculate the collective adjustment amount.

**Authorizing Donations of Sick Leave Time—H.B. 1771**

*by Representatives Raney and Johnson—Senate Sponsor: Senator Kolkhorst*

State employees with serious injuries or illnesses or employees who have immediate family members with serious injuries or illnesses may use personal sick leave or time from the sick leave pool. A state employee may use time from the pool if the employee has used all of the employee's personal sick leave time because of a catastrophic illness or injury or a previous donation to the pool. The amount of time an employee may withdraw from the pool is limited and state employees have expressed the desire to share their unused leave to other employees once they have withdrawn their limit from the pool and exhausted their own sick leave time. This bill:

Authorizes a state employee to donate accrued sick leave to another state employee who is employed in the same state agency as the donor employee and has no remaining sick leave and has withdrawn their limit from the sick leave pool.

**Authorizing a Fee for Private Schools—H.B. 1881**

*by Representative Capriglione et al.—Senate Sponsor: Senator Creighton*

Merchants in Texas are currently prohibited from imposing a surcharge on purchases made with a debit card, stored-value card, or credit card. This has affected how many parents pay tuition for their children to attend a private school. Tuition at private schools can be substantial and parents have expressed the desire to pay tuition with their credit cards for the sake of ease and certain bonus incentives offered by their banking or crediting institution. This bill:

Authorizes an accredited private school to charge an additional fee in connection with a credit card, debit card, or electronic funds transfer payment of tuition and other fees to the private school.
TRS Deferred Retirement Option Plan—H.B. 1937  
by Representative Darby—Senate Sponsor: Senator Fraser

Members opting into the deferred retirement option plan (plan) for members of the Teacher Retirement System of Texas (TRS) are required to sign an irrevocable agreement. Although the legislature has created temporary revocation periods, there are still over 100 active members who participate in the plan while still working. This bill:

Permits certain members or beneficiaries to revoke the member’s decision to participate in the plan on a form prescribed by TRS on or before December 31, 2015.

Requires TRS to make account transfers and change records for such a member, as if the member had never participated in the plan.

Provides that this Act applies only to:

- a member whose approved period of participation in the plan has expired and who has not retired on or before December 31, 2015; or
- a beneficiary of a member whose approved period of participation in the plan has expired and who has not retired before death if:
  - the beneficiary is eligible to receive both a distribution of benefits payable on the death of the member and the distributions from the plan; and
  - the member dies on or after September 1, 2015.

Increasing the Limit on Cider Container Size—H.B. 2022  
by Representative Smith—Senate Sponsor: Senator Eltife

The Alcoholic Beverage Code provides that cider is considered a light wine and that the maximum cider container size that may be sold to a retail dealer is eight gallons. The cider industry in Texas has grown by 90 percent over the last year. Interested parties are concerned that additional growth has been limited by the maximum capacity of a container in which a person may legally sell wine to a retail dealer. This bill:

Increases the maximum cider container size that may be sold to a retailer to 15.5 gallons.

Deferred Compensation Plans of Certain Hospital Districts—H.B. 2068 [VETOED]  
by Representatives Coleman and Walle—Senate Sponsor: Senator Garcia

Deferred compensation plans (DCPs) require employees to make an active selection to join the plan. Employees who do not make an active selection to enroll in the plans are not taking advantage of the tax-deferred savings afforded by the plans or the employer-sponsored matching contributions. Surveys have indicated that there is a much higher level of savings when an automatic enrollment with an "opt out" provision feature is offered. This may help assure that employees will be better financially situated in retirement.
Many private employers modify their plans to automatically enroll their employees in the DCP at a certain percentage, unless the employee actively "opts out" of this enrollment. The State of Texas allows state employers to have automatic enrollment for the various 457 plans (plans authorized under Section 457 of the federal Internal Revenue Code) that different institutions have in place, but this does not apply to local governments. This bill:

Adds Subchapter B-1 (Participation in Deferred Compensation Plan by Certain Hospital District Employees) to Chapter 609, Government Code:

- Provides that this subchapter applies only to a hospital district (district) created under general or special law if the district offers a certain DCP to the district's employees.
- Authorizes such district to elect to require automatic employee participation in a DCP.
- Provides that an employee automatically participates in the district's DCP unless the employee affirmatively elects not to participate in the plan.
- Provides that an employee participating in a DCP makes a contribution by automatic payroll deduction of one percent of the employee's compensation to a default investment product selected by the plan administrator.
- Provides that an employee participating in a DCP may, in accordance with rules adopted by the district's board (board), elect to end participation in the DCP or elect to: contribute to a different investment product; contribute a different amount; or designate all or a portion of the employee's contribution as a Roth contribution subject to the availability of a Roth contribution program.
- Requires districts to inform employees at the time of employment of the elections the employee may make and the responsibilities of the employee.
- Requires the board to adopt rules to implement the requirements of this subchapter and sets forth what the rules must ensure.
- Requires the district to inform new employees of their automatic enrollment in a DCP and their right to opt out of enrollment.
- Requires the district to maintain a record of a new employee's acknowledgment of receipt of information regarding the ability to opt out of enrollment in a DCP.
- Authorizes a district to transfer an employee's deferred amounts and investment income from a qualified investment product to the trust fund of the DCP if the district determines that the transfer is in the best interest of the DCP and the employee.
- Requires the district to promptly provide certain notice to an employee after such a transfer.
- Authorizes a district to invest deferred amounts and investment income in a qualified investment product specifically designated by the district for that purpose.
- Authorizes a district to contract for necessary goods and consolidated billing, accounting, and other services, including periodic audits, to be provided in connection with a DCP.
- Provides that this Act applies only to an employee of a district who begins employment on or after January 1, 2016.

Participation of State Military Forces in State Group Benefits Program—H.B. 2123

By Representative Phil King et al.—Senate Sponsor: Senator Perry

State law and practices related to the provision of health care coverage to members of the Texas military forces do not meet federal standards implemented by the Patient Protection and Affordable Care Act. This bill:
Provides that a member of the state military forces, rather than a volunteer in the Texas State Guard, who is not a full-time or part-time state employee and who has been on state active duty or on state training or other duty for more than 60 days is eligible to participate in the state group benefits program (program) and is considered to be a full-time state employee for the purposes of that program, including the receipt of a full state contribution for insurance coverage, subject to certain specified requirements:

Requires the Texas Military Department to:
- require payment of the cost associated with paying the state contribution of a member of the state military forces who elects to participate in the program by the person responsible for paying for the mission for which the member is on state active duty or state training and other duty; and
- reimburse the board of trustees of the Employees Retirement System of Texas (ERS) for that cost on receipt of payment.

Requires the adjutant general and ERS to adopt a memorandum of understanding to establish an appropriate method of administering the reimbursement of the state contribution.

**Payment Date for Annuities From TRS—H.B. 2168**

*by Representative Muñoz, Jr.—Senate Sponsor: Senator Lucio*

Retirement benefits are paid by the Teacher Retirement System (TRS) of Texas on the first working day of the month following the month for which the payment accrued. This means that if a month that begins on a weekend or holiday, annuities are not paid until the following business day, resulting in retirees who depend on those benefits having to wait several more days to receive the benefits. This bill:

Changes the payment date for an annuity under TRS from the first working day of a month to the last working day of the month for which the payment accrues.

**Requirements for Plumber’s Certification—H.B. 2255**

*by Representatives Larson and Larry Gonzales—Senate Sponsor: Senator Creighton*

Businesses in Texas experience increasing difficulty when hiring and maintaining qualified, licensed plumbers due to a shortage of capable labor. Parties assert that while the workforce is aging, the shortage is compounded by current requirements regarding the number of supervised hours that are required for eligibility to take the examination for a journeyman or tradesman plumber-limited license. This is seen as an impediment to entry into and advancement within the trade for potential applicants. This bill:

Revises eligibility requirements for a plumbing license and establishes eligibility requirements for a plumbing examiner.

Increases the maximum number of hours that the Texas Board of Plumbing Examiners may credit a plumber’s apprentice who is applying for a journeyman plumber license or tradesman-plumber limited license.
Business Exemptions During Disaster Response—H.B. 2358
by Representatives Lucio III and Rodney Anderson—Senate Sponsor: Senator Eltife

Following a natural disaster or other emergency, involvement by out-of-state businesses and agencies to restore infrastructure is not uncommon in Texas. Such times require swift and efficient efforts to restore safety and security to an affected area. Interested parties note that the unnecessary obstacles, such as other states' different tax systems and business registration and occupational licensing requirements, can impede coordinated efforts between Texas and out-of-state assistance. H.B. 2358 is a version of model legislation created by the National Conference of State Legislatures to prevent such delays during disaster recovery assistance. This bill:

Provides that certain out-of-state businesses and employees who are in Texas to perform work related to a disaster or emergency response period are exempt from requirements to register with the secretary of state, file a tax report or pay taxes to Texas, or license themselves, their equipment, or their employees with the state or local government.

Liability Arising From an Employee Wellness Program—H.B. 2390
by Representative Bohac—Senate Sponsor: Senator Hancock

Although research has shown employee wellness programs are a great return on investment, there is concern that some employers will be discouraged from implementing these programs for fear of litigation. This bill:

Adds Chapter 142a (Limitation on Liability for Certain Programs) to the Civil Practice and Remedies Code:
- Defines "employee" and "employee wellness program."
- Prohibits a civil action from being brought against an employer for establishing, maintaining, or requiring participation in an employee wellness program unless:
  - the program discriminates on the basis of a prior medical condition, gender, age, or income level; or
  - the cause of action is based on intentional or reckless conduct.
- Provides that this Act does not create a cause of action or expand an existing cause of action.

Low-Balance Gift Cards—H.B. 2391
by Representative Bohac—Senate Sponsor: Senator Watson

Consumers are not currently entitled to receive a cash refund for gift cards, also known as "stored value cards," with a low balance. Such refunds are at the discretion of the card issuer. Interested parties note that unused gift card balances can create a burden for retailers when they attempt to track them for audit-related purposes. This bill:

Requires the card-issuing seller, upon request, to refund the balance of the card in cash if a purchase is made with the card and a balance no greater than $2.50 remains after the transaction.
In 2004, the Department of State Health Services (DSHS) adopted rules to regulate public swimming pools and spas. The majority of these rules were directed at construction and equipment requirements, but DSHS also included a rule that prohibits the consumption of food or beverages in a swimming pool altogether.

Despite this statute, many establishments in Texas currently operate swim-up bars that serve beverages and or food to guests in the water. However, the agency or local regulatory authorities could choose to begin enforcing this rule at any time, which would put these businesses at risk of not only immediate closure, but also civil and criminal penalties.

Although the food and beverages rule has been in effect but unenforced for over a decade, DSHS has not taken the initiative to amend the rules—even though the regulatory division supports eliminating the rule. This bill:

Provides that rules adopted under Chapter 341, Health and Safety Code, may not prohibit the consumption of food or beverages in a public swimming pool that is privately owned and operated.

The Texas State Board of Plumbing Examiners has no mechanism to allow a licensee to transfer their license number to another licensee—a request that generally occurs when a family member wants to inherit the license number of a retired or deceased licensee. This bill:

Authorizes a person who has held a license for 50 years to transfer the license on the date of the person's retirement or death to another person who is related within the second degree and also holds a plumber's license.

While Texas has a lower rate of non-fatal work-related injuries than most states, it has a higher rate of work-related fatalities. Advocates contend that a safety reimbursement program for employers who spend money to improve the safety of their workplace would prevent work-related fatalities. This bill:

Requires the commissioner of workers' compensation to establish by rule a safety reimbursement program by which eligible employers may receive up to $5,000 for expenses such as physical modifications to a worksite, safety equipment and other devices, and safety training.
Licensing of Auctioneers—H.B. 2481  
_by Representative Geren—Senate Sponsor: Senator Eltife_

Recently enacted legislation made several changes to Occupations Code provisions regulating auctioneers, including eliminating the associate auctioneer license. Interested parties contend that this has removed an important path for people working to become a licensed auctioneer through auction experience in lieu of passing an examination. This bill:

Requires the Texas Commission of Licensing and Regulation to adopt standards for the advertisement of an auction by an auctioneer.

Defines "associate auctioneer" as an individual who, for compensation, sells property at an auction under the direct supervision of a licensed auctioneer.

Defines an "auctioneer" as an individual who sells property by live bid at auction, regardless of whether the individual receives compensation.

Requires associate auctioneers to hold a license. Provides that an applicant for an auctioneer's license may show proof of working as an associate auctioneer for at least two years and participation in at least 10 auctions in lieu of passing a written or oral examination.

Provides that an auction of property through the Internet, a sale conducted by an auctioneer outside of Texas, and a sale of a motor vehicle at auction do not require an auctioneer's license.

Foreign Trade Zone at the Pharr Port of Entry—H.B. 2515  
_by Representative Muñoz, Jr.—Senate Sponsor: Senator Lucio_

United States foreign trade zones are usually located in areas with geographic trade advantages, such as major seaports, international airports, and national frontiers. Interested parties note that these zones, in addition to potentially being eligible for state and local tax benefits, can be used for the unloading, manufacturing, reassembling, testing, sampling, processing, repackaging, and reexporting of certain goods without the intervention of United States customs authorities. These parties assert that, because of the large amount of traffic traveling between the United States and Mexico through the Pharr International Bridge, the City of Pharr is a prime area for the establishment of a foreign trade zone. This bill:

Authorizes the City of Pharr, or a corporation organized under the laws of this state and designated by the City of Pharr, to apply for and accept a grant of authority to establish, operate, and maintain a foreign trade zone at or adjacent to the Pharr port of entry and other subzones.

Construction Managers-At-Risk—H.B. 2634  
_by Representative Kuempel et al.—Senate Sponsor: Senator Zaffirini_

Current law requires a governmental entity to conduct two separate procurements for a construction project: selecting an engineer or architect to prepare and manage design under one contract and selecting a construction manager-at-risk to manage and perform construction services under another. If the engineer
or architect is not an employee of the governmental entity, the selection is based on qualifications set out in statute and the selected engineer or architect may also serve as the construction manager-at-risk if a separate procurement is conducted. Advocates contend that this is a departure from best practices and allows for the engineer or architect to influence selection criteria in favor of related entities as construction managers-at-risk, which may constitute a conflict of interest and create competitive disadvantages for construction managers-at-risk. This bill:

Prohibits the governmental entity's architect or engineer for a project from serving as a construction manager-at-risk.

**Abolition of Certain Economic Development Programs—H.B. 2667**

*by Representative Ashby—Senate Sponsor: Senator Eltife*

H.B. 2667 abolishes two programs administered by the Texas Economic Development Bank (bank)—the Small Business Industrial Development Corporation and the Link Deposit Program, both of which have lain dormant for years—and directs that any monies remaining in either program be transferred to the general revenue fund. This bill:

- Repeals Subchapter N (Business Development—Linked Deposit Program), Chapter 481 Government Code.
- Repeals Chapter 503 (Texas Small Business Industrial Development Corporation), Local Government Code.
- Amends Section 447.013 (Advanced Clean Energy Project Grant and Loan Program), Government Code, to provide that a recipient of a grant or loan under this section is encouraged to purchase goods and services from small businesses and historically underutilized businesses.
- Amends Section 489.108, Government Code, to require the Texas Economic Development Bank (bank), notwithstanding any other law, to perform the duties and functions of the office with respect to the following programs, services, and funds:
  - the capital access program;
  - the Texas leverage fund;
  - the enterprise zone program;
  - the industrial revenue bond program;
  - the defense economic readjustment zone program;
  - the Empowerment Zone and Enterprise Community grant program; and
  - the renewal community program.

Requires the bank to reject any application for a linked deposit loan submitted to the bank before the effective date of this Act for which a linked deposit has not been made in accordance with Subchapter N, Chapter 481, Government Code, as that subchapter existed immediately before being repealed by this Act.

Provides that, notwithstanding the repeal by this Act of Subchapter N, Chapter 481, Government Code, Subchapter N is continued in effect for the limited purpose of allowing the bank to administer linked deposits made before the effective date of this Act and to pursue the bank’s remedies under that
subchapter if a recipient of a loan to which a deposit is linked defaults on the loan or a lending institution that makes a loan for which a linked deposit is made fails to comply with that subchapter.

Requires the bank, as soon as practicable after the effective date of this Act, to send to the comptroller of public accounts of the State of Texas for deposit in the general revenue fund any revenue or other money of the Texas Small Business Industrial Development Corporation held in financial institutions as provided by Section 503.055 (Depository), Local Government Code, as that section existed immediately before that section's repeal by this Act.

Temporary Tax Exemption of Property of Data Centers—H.B. 2712
by Representatives Geren and Bohac —Senate Sponsor: Senator Hancock

Many companies, including Apple, Facebook, and Google, have data centers in Texas. Many states provide economic incentives to attract large data center projects. These capital-intensive projects represent a growing market segment in the technology industry and generate economic activity in the cities and states in which they are located. The largest stakeholders in the enterprise data center field tend to locate in states where competitors are headquartered.

Although Texas is well positioned to attract large data center projects because of its strong infrastructure, major population centers, educated workforce, low construction costs, and a favorable permitting process, H.B. 2712 creates a competitive environment for Texas to become a leader in this segment of the industry. This bill:

Defines terms in Section 151.3595 (Property Used in Certain Large Data Center Projects; Temporary Exemption), Tax Code, including "county average weekly wage," "large data center project," "permanent job," "qualifying job," "qualifying large data center project," "qualifying operator," "qualifying owner," and "qualifying occupant."

Provides that tangible personal property that is necessary and essential to the operation of a qualifying large data center project is exempted from the taxes imposed by Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, if the tangible personal property is purchased for installation at, incorporation into, or in the case of electricity, use in a qualifying large data center project by a qualifying owner, qualifying operator, or qualifying occupant, and the tangible personal property set forth.

Provides that the exemption does not apply to office equipment or supplies, maintenance or janitorial supplies or equipment, equipment or supplies used primarily in sales activities or transportation activities, tangible personal property on which the purchaser has received or has a pending application for a refund under Section 151.429 (Tax Refund for Enterprise Projects); tangible personal property not otherwise exempted that is incorporated into real estate or into an improvement of real estate; tangible personal property that is rented or leased for a term of one year or less; or a taxable service that is performed on tangible personal property exempted.
Hair braiding is a popular practice among many African, African-American, Caribbean and immigrant communities in Texas. Although natural hair braiding does not use chemicals, dyes, or coloring agents and does not involve cutting hair, it is regulated under barbering and cosmetology laws. Advocates contend that certain regulatory requirements related to equipment and sanitation are not needed for the practice of natural hair braiding. Additionally, a recent United States district court ruling determined that certain regulatory requirements under state law for hair braiding schools violate the United States Constitution and do not advance public health and safety or any other government interest. This bill:

- Provides for the deregulation of natural hair braiding.

**Participation in the Federal Treasury Offset Program—H.B. 2732**

by Representatives Metcalf and Meyer—Senate Sponsor: Senator Zaffirini

Charged with operating the Texas unemployment compensation program, the Texas Workforce Commission (TWC) must ensure that the program operates in conformity with applicable federal laws governing state unemployment compensation programs. If the state's unemployment compensation laws are not in conformity with federal law, the state runs the risk of losing federal funding. There are concerns that while recently enacted federal legislation requires states to submit certain types of debt for offset recovery via the federal Treasury Offset Program (program), TWC does not currently have the authority to comply with the new federal legislation. This bill:

- Authorizes TWC to collect the following covered unemployment compensation debt through the program:
  - a past-due debt for erroneous payment of benefits due to fraud that has become final under law and remains uncollected;
  - a past-due debt for erroneous payment of benefits due to a person's failure to report earnings, even if non-fraudulent, that has become final under law and remains uncollected;
  - a past-due employer contribution owed to the compensation fund for which TWC has determined the person to be liable and that remains uncollected; and
  - any penalties and interest assessed by TWC on certain debt.

- Requires TWC, before submitting covered unemployment compensation debt for recovery under the program, to:
  - notify the debtor by regular United States mail that TWC plans to recover the debt through the offset of any federal tax refund;
  - provide the debtor at least 60 days following the date the notice is provided to present to TWC evidence that all or part of the debt is not:
    - legally enforceable;
    - due to fraud or unreported earnings; or
    - a contribution owed to the compensation fund; and
  - consider any evidence presented by the debtor to determine the amount of debt that is legally enforceable and owed.
Authorizes TWC, in considering evidence presented by a debtor, to determine only whether the debtor has demonstrated that the debt is not subject to recovery through the program so that TWC is able to minimize erroneous offsets. Prohibits TWC from reviewing the initial determination establishing the debtor's liability.

Requires TWC to assess against the debtor the cost of any administrative fee charged by the United States Department of the Treasury for each offset. Authorizes TWC to add the assessed amount to the covered unemployment compensation debt that is offset under the program.

**Alcohol Sales in Annexed Areas—H.B. 2735**  
*by Representatives Capriglione and Springer—Senate Sponsor: Senator Hancock*

Some municipalities face the issue of having annexed small portions of land many years after an initial local beer and wine sales election. This requires a municipality to hold another local option election if a developer wants to develop the land and include a business that sells beer and wine. This bill:

Authorizes the governing body of a municipality whose local option status allows for the legal sale of beer and wine for off-premise consumption as a result of a local option election held on or after January 1, 1985, to adopt an ordinance authorizing such sales in an area annexed by the municipality after that election, provided the annexed area meets certain criteria.

**Workers' Compensation Claim Eligibility—H.B. 2771**  
*by Representative Martinez et al.—Senate Sponsor: Senator Larry Taylor*

Workers' compensation claims are currently restricted by the applicable definition of "course and scope of employment," which advocates contend does not reflect the reality that some emergency response personnel, such as volunteer firefighters, must travel in a personal vehicle to or from an emergency. Advocates further contend that workers compensation claims made by such personnel have been denied as a result of this oversight. This bill:

Provides that the travel of a firefighter or emergency medical personnel en route to an emergency call is considered to be in the course and scope of employment.

**Authority of Certain Economic Development Corporations—H.B. 2772**  
*by Representative "Mando" Martinez—Senate Sponsor: Senator Lucio*

While some development corporations may lease and sell all or any part of certain development projects to support manufacturing and industrial development, these corporations may not own or operate a project as a business, except for closed or realigned military facilities. Authorization for certain corporations created by the City of Donna to undertake projects that promote new or expanded business enterprises through addition or expansion of transportation facilities would be beneficial to the City of Donna. This bill:

Provides that, for a corporation to which the provisions of this Act apply, "project" includes the land, buildings, facilities, infrastructure, and improvements that the corporation's board of directors finds are required or suitable for the development or promotion of new or expanded business enterprises through
transportation facilities including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, marine ports, inland ports, mass commuting facilities, parking facilities, and related infrastructure located on or adjacent to an airport or railport facility.

Provides that such a corporation has all the powers necessary to own and operate a project as a business if the project falls under the definition thereof as amended by the provisions of this Act.

Streamlining Reporting Requirements—H.B. 2891
by Representative Otto et al.—Senate Sponsor: Senator Perry

Limited partnerships are currently required to file a report containing certain information about the partnership with the Texas Secretary of State (SOS) every four years to maintain the right to do business in Texas, and professional associations are required to file a similar statement annually. Advocates suggest that since both entities file annual franchise tax returns, filing the information that is required in the SOS filing with the franchise tax return would streamline the filing process, eliminate duplicate reports, and reduce the number of documents that must be processed at receiving agencies. This bill:

Includes a limited partnership and a professional association on which the franchise tax is imposed among the entities required to file a franchise tax public information report with the Comptroller of Public Accounts of the State of Texas.

Excludes a limited partnership from a periodic reporting requirement.

Repeals the requirement that a professional association file an annual statement with SOS.

Health Benefit Plans Administered by TRS—H.B. 2974
by Representative Flynn et al.—Senate Sponsor: Senator Huffman

Interested parties note that there are serious issues regarding the funding of TRS-Care and TRS-ActiveCare, health benefit plans provider under the Teacher Retirement System of Texas (TRS). These parties state that there is a need to examine the financial soundness of the plans, the cost and affordability of plan coverage to persons eligible for coverage under the plans, and the sufficiency of access to physicians and health care providers under the plans. This bill:

Redefines "annual compensation" as compensation to a member of TRS for service during a 12-month period determined by TRS, rather than the school year.

Provides that membership in TRS may only be established through employment with a single employer on at least a half-time basis.

Provides that a person does not terminate membership if the person is employed by an employer covered by TRS and is not eligible for membership in TRS because the person is employed on less than a half-time basis.
Provides that a member may not purchase more than five years of service credit considered nonqualified service credit under the federal Internal Revenue Code.

Provides that Chapter 551 (Open Meetings), Government Code, does not apply to an assembly of the board of trustees of TRS or one of the board's committees while at an event held for educational purposes if the assembly or committee does not deliberate, vote, or take action on a specific matter of public business or public policy.

Provides that TRS determines the amount of an employer contribution for certain retirees.

Provides that if more than one employer reports a retiree to TRS during a month, the amount of the contribution will be prorated among the employers.

Creates a joint interim committee (committee) to study and review the health benefit plans, including TRS-Care and TRS-ActiveCare, and to propose reforms.

Sets forth the composition of the committee.

Requires that the committee study the health benefit plans, including TRS-Care and TRS-ActiveCare, to examine and assess the financial soundness of the plans, the cost and affordability of plan coverage, and the sufficiency of access to physicians and health care providers under the plans.

Requires that the committee, as part of the study of TRS-ActiveCare, study the impact of:

- allowing school districts and other participating entities in the uniform group coverage program for active employees to opt out of that program;
- allowing or prohibiting future participation by previous participating entities that have opted out; and
- establishing a regional rating method for determining premiums charged in different regions of the state for the benefits provided under a group coverage plan established under the program.

Requires the committee, not later than January 15, 2017, to report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor.

Requires the lieutenant governor and speaker of the house of representatives, not later than the 60th day after the effective date of this Act, to appoint the members of the committee.

Provides that committee is abolished January 20, 2017.

**Journeyman Lineman—H.B. 3043 [VETOED]**

by Representative Senfronia Thompson—Senate Sponsor: Senator Garcia

The original intent of recently enacted legislation creating a journeyman lineman license is open to interpretation, which unintentionally excludes certain lineman work from the scope of the work covered by the license. Interested parties request clarification of the statute. This bill:
Redefines the work of a "journeyman lineman" to include the installation and maintenance of electrical equipment from a substation to a point where the electricity enters a building or structure on a customer's premises.

Requires the executive director of the Texas Department of Licensing and Regulation (TDLR) or the Texas Commission of Licensing and Regulation, as appropriate, to establish the financial responsibility requirements for electrical contractors and regularly adopt the revised National Electrical Safety Code published by the Institute of Electrical and Electronics Engineers.

Requires TDLR to administer a journeyman lineman examination that tests an applicant's knowledge of skills.

Transferring Administration of the JET Grant Program—H.B. 3062
by Representative Clardy—Senate Sponsor: Senator West

Administration of the Jobs and Education for Texans (JET) Grant Program was originally delegated to the Office of the Comptroller of Public Accounts of the State of Texas (comptroller's office). Advocates of H.B. 3062 argue that the JET Grant Program should be administered by the Texas Workforce Commission (TWC) because TWC has a more comprehensive understanding of the employment market and is therefore better suited to administer the grant program. This bill:

Transfers administration of the JET Grant Program from the comptroller's office to TWC.

Provides that the advisory board of education and workforce stakeholders that assists TWC in administration the JET Grant Program consists of six, rather than seven, members.

Includes an independent school district that has entered into a partnership with a public junior college or public technical institute for the purpose of promoting career and technical education or offering dual credit courses to the district's students among the institutions to which the TWC is authorized to award JET grants.

Unemployment Insurance Contributions—H.B. 3150
by Representatives Huberty and Hunter—Senate Sponsor: Senator Creighton

Unemployment insurance contributions, as set by the wage base for a calendar year, are made by an employer on that amount of the employee's wages. Unemployment insurance contributions on such wages are currently collected in excess of the calendar year wage base in the event a person licensed to provide professional employer services becomes an employer of such employees pursuant to a professional employer services contract at any time after January 1 of the calendar year. Interested parties maintain that this situation results in double taxation. Advocates contend that a discrepancy with federal law exists in current state law regarding these contributions by such an employer under the Texas Unemployment Compensation Act, and that the discrepancy requires clarification regarding wages subject to those contributions. This bill:
Modifies the manner in which taxable wages paid to an employee are calculated in the calendar year during which the employee becomes a covered employee of the organization for the purposes of the Texas Unemployment Compensation Act.

Public Retirement Systems—H.B. 3310

*By Representative Paul et al.—Senate Sponsor: Senator Larry Taylor*

Concern over the ability of public retirement systems to meet their long-term obligations has grown in recent years. A study on the financial health of Texas public retirement systems made key findings and provided recommendations on mitigating a retirement system's risk of not meeting its obligations. This bill:

- Requires the board of each public retirement system to post on the board's Internet website, or on a publicly available website that is linked to the board's website, the most recent data regarding the system's actuarial valuation and any funding soundness plan (plan).

- Exempts the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, and the Judicial Retirement System of Texas Plan Two from provisions regarding such a plan.

- Requires that the valuation include a recommended contribution rate needed for the system to achieve and maintain an amortization period that does not exceed 30 years.

- Requires a system with assets of at least $100 million, except as otherwise provided, to conduct an actuarial experience study once every five years and to submit to PRB a copy of the actuarial experience study before the 31st day after the date of the study's adoption.

- Requires a system for a governmental entity to notify the associated governmental entity (AGE) in writing if the retirement system receives an actuarial valuation indicating that the system's actual contributions are not sufficient to amortize the unfunded actuarial accrued liability within 40 years.

- Requires the system's governing body and AGE, if they have already formulated a plan, to formulate a revised plan if an actuarial valuation showing that the system's amortization period exceeds 40 years and the previously formulated plan has not been adhered to.

- Sets forth how a plan must be developed and designed.

- Requires a system and AGE that formulate a plan to report any updates of progress made by the entities toward improved actuarial soundness to PRB every two years.

- Requires each system that formulates a plan to submit a copy of that plan to PRB and any change to the plan not later than the 31st day after the date on which the plan or the change is agreed to.

- Imposes similar provisions regarding the requirements and formulation of a plan for a system governed under Article 6243i (Unitary Retirement System for Certain Municipalities), Revised Statutes.
Requires each system or a governmental entity, as applicable, to formulate a plan, if required to do so based on the most recent actuarial valuation study conducted under Section 802.101, Government Code, as amended by this Act, not later than November 1, 2016.

Requires that the first actuarial valuation study conducted for or by a system on or after the effective date of this Act must include a recommended contribution rate.

Requires a system with assets of at least $100 million to conduct the first actuarial experience study not later than September 1, 2016, and provides that if the system conducted a study after August 31, 2011, and on or before the effective date of this Act, the first must be conducted not later than the fifth anniversary of the date of that preceding study.

**Liability of Reimbursing Employers—H.B. 3373**  
*by Representative Doug Miller et al.—Senate Sponsor: Senator Hancock*

Many political subdivisions are classified as a reimbursing employer—an employer that reimburses the State of Texas for unemployment benefits paid by the state to former employees of the political subdivision who qualify for benefits—under the Texas Unemployment Compensation Act. Concerns have arisen that under existing law, a political subdivision is required to make reimbursement payments even though the former employee of the political subdivision did not qualify for unemployment benefits when the employment arrangement ended, such as a situation in which the former employee was discharged for misconduct or the employee voluntarily terminated employment to seek other employment. Clarification is needed regarding the liability of reimbursing employers under the Texas Unemployment Compensation Act. This bill:

Provides that a reimbursing employer is not liable for paying a reimbursement for benefits paid to an individual, regardless of whether the employer was named as the individual's last employer, if the individual's separation from work with the employer resulted from the individual being discharged for misconduct or voluntarily leaving work without good cause connected with the individual's work.

Authorizes a reimbursing employer to contest reimbursements billed to the employer by the Texas Workforce Commission in violation of this section using the dispute resolution procedures prescribed by Chapter 212 (Dispute Resolution), Labor Code.

**Employment Status of Certain Individuals—H.B. 3685**  
*by Representative Charles "Doc" Anderson—Senate Sponsor: Senator Lucio*

The description of persons engaged in rehabilitative work needs to be updated in the Labor Code to remove any presumption in statute that individuals with disabilities are not able to fully participate in the labor market. This legislation seeks to shift the statutory paradigm from the stance that opportunities for individuals with disabilities in the workplace are limited to a position that recognizes individuals with disabilities as full participants in the workplace, with corollary rights and benefits. This bill:

Redefines "employment" to provide that it does not include service performed:
• by an individual whose earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury while the individual is in training at a sheltered workshop or other facility operated by a charitable organization under a rehabilitation program that includes:
  o an individual plan for employment as required by 29 U.S.C. Section 722, as amended by the Workforce Innovation and Opportunity Act (Pub. L. No. 113-128);
  o a planned employment outcome; or
• by an individual who receives work relief or work training as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency, an agency of a state, a political subdivision of a state, or an Indian tribe.

Provides that "employment" includes service performed by an individual whose earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury, other than an individual compensated as provided by Section 62.057 (Patients and Clients of Texas Department of Mental Health and Mental Retardation), Labor Code, and who, after training, is working for a sheltered workshop or other facility operated by a charitable organization, either temporarily while awaiting placement in a position of employment in the competitive labor market, or permanently because the individual is unable to compete in the competitive labor market.

Information Regarding Applicants Under the Private Security Act—H.B. 4030
by Representative Dale—Senate Sponsor: Senator Huffman

Currently, certain occupational licenses allow the applicant to work for 120 days while the applicant's background information is being processed by Texas Department of Public Safety of the State of Texas (DPS). These licenses include those issued for locksmiths and alarm installers who have access to the inside of private homes. In February 2015, it was reported that a registered sex offender was installing home security alarms. Although his application was subsequently rejected, during the time period when he was allowed to work, neither he nor his employer revealed his criminal background to customers. This bill:

Amends Section 1702.230 (Application for Registration or Endorsement), Occupations Code, to require that an application include the required fees, including the criminal history check fee, and fingerprints of the applicant.

Provides that an application is not considered to be verified until the Texas Private Security Board (TPSB) has received electronic verification from DPS or the Federal Bureau of Investigation, as applicable, that the applicant has submitted the applicant's fingerprints.

Requires TPSB to make information available to the public concerning whether an applicant has met the requirements for performing a service for which registration or endorsement is required.

Permits an applicant to begin employment, other than duties as a commissioned security officer, if such information is not made available within 48 hours after the time the applicant's fingerprints are submitted and the employer:
  • verifies through DPS's publicly accessible website that the applicant is not disqualified for the registration or endorsement based on the applicant's criminal history and is not required to register
as a sex offender; and
• maintains a copy of the search results in the applicant's employee file.

Texas Enterprise Zone Program—S.B. 100
by Senator Hinojosa—House Sponsor: Representative Murphy

The Texas Enterprise Zone Program was initially created to incentivize businesses to create jobs by locating in economically disadvantaged areas. The program refunds taxes to qualified businesses that meet employment and investment criteria. Interested parties contend that the enterprise zone program has moved away from its mission of creating jobs and now primarily awards projects for job retention. S.B. 100 seeks to re-focus the Texas Enterprise Zone Program on job creation in places that need it the most while maintaining job retention incentives for certain projects. This bill:

Redefines "qualified employee" and defines "veteran" as they relate to an enterprise zone.

Provides provisions for the nomination and administration of certain enterprise projects by certain governing bodies.

Requires a nominating county to enter into an interlocal agreement with the municipality that has jurisdiction of the territory in which the nominated project or activity will be located before a county makes a nomination. Requires that the interlocal agreement specify that either the nominating county or the municipality that has jurisdiction of the territory in which the nominated project or activity will be located is the governmental body having administration authority and that both the nominating county and municipality approve the nomination. Authorizes a county to use the maximum number of designations that the county is permitted within its territory.

Authorizes an enterprise project to be split into two half designations.

Removes the ability of an enterprise project to receive a franchise tax credit. Revises certain requirements for an enterprise project to be eligible to receive a tax refund.

Continuation and Functions of the Texas Workforce Commission—S.B. 208
by Senator Campbell et al.—House Sponsor: Representative Burkett

The Texas Workforce Commission (TWC) oversees and provides workforce development services to employers and job seekers, contracting with 28 local workforce development boards to provide a variety of services, such as job training, employment services, and child care. The agency also administers the state's unemployment insurance system and enforces state law to prevent and reduce employment and housing discrimination.

TWC is subject to the Texas Sunset Act and will be abolished on September 1, 2015, unless continued by the legislature. The Sunset Advisory Commission (Sunset) concludes that the agency's functions are needed and have benefitted from integration into a single, locally driven workforce system and recommends the transfer of services to help people with disabilities in finding jobs from the Department of
Business, Economic Development, and Workforce

Assistive and Rehabilitative Services to TWC, along with changes to improve the administration of these programs. In addition, Sunset recommends changes to several existing TWC programs. This bill:

Requires the Texas Workforce Commission (TWC) to include information regarding any formal enforcement action taken by the commission against a career school or college in its current directory of schools.

Authorizes TWC to receive criminal history record information from the Department of Public Safety of the State of Texas (DPS) for certain individuals associated with the administration of vocational rehabilitation services and other programs under Subtitle C (Vocational Rehabilitation and Certain Other Services for Persons With Disabilities), Title 4, Labor Code, as added by this Act.

Transfers the powers and duties related to vocational rehabilitation under Chapters 91 (Texas Commission for the Blind), 111 (Texas Rehabilitation Commission), and 117 (Department of Assistive and Rehabilitative Services) of the Human Resources Code from the Department of Assistive and Rehabilitative Services (DARS) to TWC.

Amends the Labor Code by adding Title 4, Subtitle C, regarding the transfer of the Vocational Rehabilitation (VR), Business Enterprises of Texas, Older Blind Independent Living Services, and the Criss Cole Rehabilitation Center programs from DARS to TWC on September 1, 2016, subject to federal approval of the transfer.

Requires TWC to create a designated state unit for VR services to comply with federal regulations, and to integrate the two unique vocational rehabilitation programs into a single program no later than October 1, 2017.

Establishes a legislative oversight committee to facilitate the transfer of VR and other services and programs to reduce potential negative effects on the delivery of services to clients.

Transfers the powers and duties of the Human Rights Commission to the TWC three-member commission and streamlines the Civil Rights Division functions.

Requires the agency to develop risk assessment criteria in determining the circumstances of providing additional reviews of the personnel policies and procedures of state agencies, and to set the related reimbursement rates at a level necessary to recover such expenses.

Authorizes TWC to participate in the federal Treasury Offset Program.

Changes the TWC sunset review date to 2027 to continue the agency for 12 years.

Requires TWC to collect and report on information regarding employment discrimination complaints.

Expands reporting requirements for TWC related to the effectiveness of subsidized child care programs. Repeals statutes enabling the civil rights division of TWC to review fire department tests, the Rehabilitation Council of Texas, and the human rights commission. Abolishes the human rights commission that governed the Texas Workforce Commission civil rights division.
Unauthorized Use of an Alcoholic Beverage Permit—S.B. 367
by Senator Garcia—House Sponsor: Representative Geren

In the context of the Alcoholic Beverage Code, subterfuge occurs when an unlicensed business uses a valid permit issued by the Texas Alcoholic Beverage Commission (TABC) to another person or business. Under current law, only the permit holder who allows the business to illegally use the permittee's permit is penalized. This bill:

Prohibits a licensee from consenting to or allowing the use or display of the licensee's license by a person other than the person to whom the license was issued.

Provides that a person commits an offense if the person knowingly allows another person to display or use a permit or license issued by TABC in any manner not allowed by law.

Provides that a person commits an offense if the person displays or uses a permit or license issued by TABC to another person in any manner not allowed by law.

Sets forth degrees of offense and criminal penalties.

Requiring State Agencies to Participate in E-verify—S.B. 374
by Senator Schwertner et al.—House Sponsor: Representative Dale

Governor Rick Perry signed an executive order requiring all state agencies to use the federal E-verify program. The E-verify program is an online system that compares information about a new employee's identification to data from the United States Department of Homeland Security and the Social Security Administration to ensure employment eligibility. The purpose of this legislation is to codify this executive order. This bill:

Requires certain state agencies to register and participate in the federal E-verify program to verify information of all new employees. Requires the Texas Workforce Commission to adopt rules and prescribe forms to implement the program.

Texas Economic Development and Tourism Office—S.B. 458
by Senator Lucio et al.—House Sponsor: Representative Greg Bonnen et al.

S.B. 458 builds on efforts begun in 1991 to foster the development of the aerospace industry in Texas, efforts that were reinforced during the 83rd Legislature with a $15 million appropriation to the Spaceport Trust Fund intended to attract commercial rocket launching facilities. S.B. 458 reforms the existing aerospace-related division in the office of the governor of the State of Texas (governor's office) and addresses state procedures for planning, developing, and supporting aerospace initiatives. This bill:

Expands the duties of the aerospace and aviation office of the Texas Economic Development and Tourism Office to include, as part of and to further the purposes of the industry-specific strategic plan to promote the aerospace and aviation industry in Texas, develop short-term and long-term policy initiatives or recommend reforms that the state may undertake or implement to:
• increase investment in aerospace and aviation activities;
• support the retention, development, and expansion of spaceports in this state;
• identify and encourage educational, economic, and defense-related opportunities for aerospace and aviation activities;
• increase funding for the spaceport trust fund and support ongoing projects that have been assisted by the fund, and recommend to the legislature an appropriate funding level for the fund;
• partner with the Texas Higher Education Coordinating Board (THECB) to foster technological advancement and economic development for spaceport activities by strengthening higher education programs and supporting aerospace activities; and
• partner with the Texas Workforce Commission (TWC) to support initiatives that address the high-technology skills and staff resources needed to better promote the state’s efforts in becoming the leading space exploration state in the nation.

Requires the aerospace and aviation office to make specific short-term and long-term statutory, administrative, and budget-related recommendations to the legislature and the governor regarding policy initiatives and reforms. Requires that the short-term recommendations include a plan for state action for implementation beginning not later than September 1, 2017. Requires that the initiatives and reforms in the short-term plan be fully implemented by September 1, 2020. Requires that the long-term recommendations include a plan for state action for implementation beginning not later than September 1, 2020. Requires that the initiatives and reforms in the long-term plan be fully implemented by September 1, 2025. Requires the aerospace and aviation office to submit these recommendations to the legislature and governor with the biennial report not later than December 1, 2016.

Requires the aerospace and aviation office, not later than December 1 of each even-numbered year, to submit to the legislature and governor, in printed or electronic form, a report detailing the actions taken by the aerospace and aviation office in carrying out policy initiatives and reforms to further the purposes of the industry-specific strategic plan, including:
• the status of all projects and activities;
• the funding of expenditures;
• a summary of work performed as part of the aerospace and aviation office’s partnership with THECB, including a summary prepared by THECB of the research conducted by public senior colleges or universities;
• a summary of work performed as part of the aerospace and aviation office’s partnership with TWC; and
• an explanation of the ways in which the aerospace and aviation office has promoted the state’s economic development goals through increased space exploration activities.

Requires the governor to appoint an aerospace and aviation advisory committee (advisory committee) consisting of seven qualified members to assist in the state’s economic development efforts to recruit and retain aerospace and aviation jobs and investment, including one member for each active spaceport development corporation in the state who represents the interests of each respective spaceport development corporation. Sets forth the duties and terms of the advisory committee.
Restructuring Certain Fund Accounts of TCDRS—S.B. 463
by Senator Huffman—House Sponsor: Representative Kuempel

This bill was requested by the Texas County and District Retirement System (TCDRS). The bill streamlines the current TCDRS accounting system to allow TCDRS to implement new nationwide pension accounting standards by the Governmental Accounting Standards Board (GASB), an independent nonpartisan organization that establishes accounting standards for state and local governments. GASB has promulgated Rules 67 and 68, which concern how pension plans report their assets and liabilities.

Currently, employee contributions and employer contributions are deposited in separate TCDRS accounts. When an employee retires, the balance from the two accounts are transferred to a general fund. Increased efficiencies could be realized by permitting employee contributions to be paid into the employer account and paying the annuity from that merged account. This bill:

Requires TCDRS, if any assets remain after certain transfers are made, to transfer to the closed subdivision annuity reserve fund an amount computed as necessary to fund the basic and supplemental annuities.

Replaces the phrase "current service annuity reserve fund" with "subdivision accumulation fund" throughout, and strikes other references to the current service annuity fund.

Provides that for certain terminated plans, the benefits are payable from the closed subdivision annuity reserve fund.

Requires TCDRS to deposit and hold in the closed subdivision annuity reserve fund all reserves for annuities payable to annuitants who were members of certain terminated plans.

Requires the TCDRS board of trustees, if a subdivision terminates participation before December 31 of a calendar year, to determine the allocation amount and transfer date before December 31 of that year.

Provides that when a member retires from a subdivision that has terminated participation with TCDRS, TCDRS must transfer the member's individual account to the closed subdivision annuity reserve fund.

Provides that, effective January 1, 2017:

- the current service annuity reserve fund is renamed the closed subdivision annuity reserve fund and consists of the assets and liabilities of each of the respective accounts in the current service annuity reserve fund for each formerly participating subdivision that has terminated participation with TCDRS; and
- TCDRS must transfer, if appropriate, the assets and corresponding liabilities of each participating subdivision's accounts in the closed subdivision annuity reserve fund, formerly known as the current service annuity reserve fund, to the appropriate account in the subdivision accumulation fund, as determined by its board of trustees in consultation with a TCDRS actuary.
Eligibility of a Landman for Unemployment Compensation—S.B. 529
by Senator Hancock—House Sponsor: Representative Phil King

The Labor Code, for purposes of determining unemployment benefits, defines a landman acting as an independent contractor as an individual who (1) is engaged in landman services; (2) is paid based on the completion of specific contracted tasks (rather than on an hourly basis); and (3) is paid pursuant to a written contract. Ambiguity has resulted in challenges to the status of independent contractors working as landmen, leading to their classification as employees of a business. The definition of "landman" contained in Section 201.077 (Service by Landman), Labor Code, needs reconciliation with the definition of landman in Section 1702.324 (Certain Occupations), Occupations Code, to provide consistency and clarity with regard to both sales taxes and unemployment taxes. S.B. 529 applies the definition contained in the Occupations Code to the Labor Code, and clarifies that a landman hired pursuant to Section 201.077, Labor Code, is to be treated as an independent contractor under Texas law. This bill:

Provides that "employment" does not include service performed for a private for-profit person by a landman, as defined by Section 1702.324 (Certain Occupations), Occupations Code, if:

- the compensation paid to the landman directly relates only to the performance of the service; and
- the service performed by the landman is performed under a written contract between the landman and the person for whom the service is performed that provides that the landman is to be treated as an independent contractor and not as an employee with respect to the service provided under the contract.

Deletes existing text providing that "employment" does not include service performed for a private for-profit person by an individual as a landman if:

- the individual is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or negotiating business agreements that provide for the exploration for or development of minerals;
- substantially all remuneration, paid in cash or otherwise, for the performance of the service is related to the completion by the individual of the specific, contracted-for tasks, rather than to the number of hours worked by the individual; and
- the service performed by the individual is performed under a written contract between the individual and the person for whom the service is performed that provides that the individual is to be treated as an independent contractor and not as an employee with respect to the service provided under the contract.

Retail Dealer’s On-Premise Late Hours License—S.B. 540
by Senator Eltife—House Sponsor: Representative Senfronia Thompson

H.B. 2818 (Ralph Sheffield; SP: Carona), 83rd Legislature, Regular Session, amended chapters of the Alcoholic Beverage Code to authorize the issuance of a permit for the legal sale of alcoholic beverages under certain circumstances if approved by a local option election, and to authorize a permittee to obtain a late hours permit under the same conditions. Because a reference to Chapter 105 (Hours of Sale: and Consumption), Alcoholic Beverage Code, was omitted, some changes were not clear. This bill:

Authorizes the holder of a retail dealer’s on-premise late hours license to sell beer for consumption on the premises on Sunday between the hours of 1:00 a.m. and 2 a.m. and on any other day between the hours of
Limited Liability for Agritourism Entities—S.B. 610

by Senator Perry—House Sponsor: Representative Murr

An agritourism entity, such as a Christmas tree farm, corn maze, or pumpkin patch, may be held liable for injury arising out of something other than negligent conduct, a dangerous condition existing on real property, a dangerous animal, or improper employee training, even if the entity provided proper warning to, or obtained a written waiver from, agritourism participants. A total of 27 states provide some protections to agritourism entities. This bill:

Adds Chapter 75A (Limited Liability for Agritourism Activities) to the Civil Practice and Remedies Code:

- Defines:
  - "agritourism activity" as an activity on agricultural land for recreational or educational purposes of participants, without regard to compensation; and
  - an "agritourism entity" as a person engaged in the business of providing an agritourism activity, without regard to compensation.
- Provides that an agritourism entity is not liable to any person for an agritourism participant injury or damages arising out of the agritourism participant injury if:
  - at the time of the agritourism activity, the warning prescribed by this chapter was posted in accordance with this chapter; or
  - the agritourism entity obtained a written agreement and warning statement from the agritourism participant with respect to the agritourism activity.
- Provides that liability is not limited for an injury:
  - proximately caused by:
    - the agritourism entity's negligence evidencing a disregard for the safety of the agritourism participant;
    - certain specified dangers, of which the agritourism entity had actual knowledge or reasonably should have known;
    - the agritourism entity's failure to properly train an employee of the agritourism entity actively involved in an agritourism activity; or
  - intentionally caused by the agritourism entity.
- Provides that the limitation on liability provided by the chapter is in addition to other limitations of liability.
- Requires an agritourism entity, for the purposes of limiting liability under this chapter, to:
  - post and maintain a sign in a clearly visible location on or near where an agritourism activity is conducted containing certain specified language; or
  - require the agritourism participant sign or, if the participant is a minor, the participant's parent, managing conservator, or guardian sign, a written agreement and warning statement in a certain specified form and including certain language.
Governor's University Research Initiative—S.B. 632
by Senators Fraser and Lucio—House Sponsor: Representative Button et al.

Nobel Laureates and National Academy members have a tangible impact on the Texas economy, bringing innovation and commercialization activity to the state. S.B. 632 creates the Governor's University Research Initiative (GURI) to help recruit Nobel Laureates and National Academy members to Texas public universities, in hopes of galvanizing research and catalyzing economic development. This bill:

Establishes the Governor's University Research Initiative (GURI), administered by the Texas Economic Development and Tourism Office within the Office of the Governor (governor's office), to award matching grants to eligible institutions to recruit distinguished researchers. Sets out criteria for awarding grants. Requires a biennial report on grants made from the GURI fund.

Requires that contracts and awards in connection with the Emerging Technology Fund (ETF) be wound up. Provides that agreements in place before the bill's effective date are not affected. Designates GURI as the successor to ETF. Requires that royalties, revenue, and other financial benefits received in the future, except money returned or repaid to the state by an award recipient, be deposited to the GURI fund.

Requires the disclosure of certain public information collected regarding ETF.

Requires the Texas Treasury Safekeeping Trust Company (TTSTC) to manage and wind up the ETF investment portfolio in a manner that provides for the maximum return on the state's investment. Requires the TTSTC to notify the Comptroller of Public Accounts (comptroller) when the final liquidation of the ETF investment portfolio has been completed for the comptroller to verify and certify to the governor. Abolishes ETF upon certification by the comptroller of final liquidation. Requires that all realized proceeds and other earning from the sale of stock or other investments and associated assets and any balance remaining at final liquidation of ETF be deposited into the general revenue fund, less the amount permitted to be retained by TTSTC for the costs of managing the portfolio.

Authorizes the unencumbered balances of the ETF to be appropriated only to: the Texas Research Incentive Program TRIP; the Texas Research University Fund; GURI; the Texas Enterprise Fund; and to the comptroller for expenses incurred in managing the investment portfolio in connection with awards from ETF. Abolishes Regional Centers of Innovation and Commercialization.

Events Trust Fund Program—S.B. 633
by Senator Fraser—House Sponsor: Representative Isaac et al.

The legislature established the events trust fund program to help communities offset the costs of hosting sporting and other special events and to encourage organizations to bring their events to Texas, thus attracting visitors and augmenting state and local revenues. Currently, the program is managed and monitored by the comptroller of public accounts (comptroller). S.B. 633 transfers the events trust fund program from the comptroller to the Economic Development and Tourism Division (EDTD) of the Office of the Governor (governor's office) and abolishes the special event trust fund. EDTD is responsible for maintaining an effective tourism campaign and partnering with local governments to promote Texas' economic growth in tourism. While the comptroller compiles tax data, the estimates required for the events trust fund program rely on a broader understanding of tourism spending, including lengths of stay and hotel
rates. EDTD serves as an expert on tourism spending data, which can be used to estimate the potential effects of these events. This bill:

Abolishes the special event trust fund.

Transfers the administration of the events trust fund program from the comptroller to EDTD. Adds certain events to those considered eligible for the major events trust fund (METF) and adds certain eligible site selection organizations. Limits eligibility for participation in the METF to certain events set forth in statute, provided that the site selection organization is also listed in statute.

Authorizes a local government corporation (corporation) located in Harris County that is authorized to collect a municipal hotel occupancy tax to act as a municipality or county as it relates to Article 5190.14, Vernon's Texas Civil Statutes. Authorizes the corporation to (1) request the establishment of a trust fund for a game or event, (2) have all the powers of an endorsing municipality or county, and (3) guarantee obligations under an event support contract by pledging fees and surcharges it might collect in connection with an event. Requires the comptroller to determine the incremental increase in tax receipts attributable to the game or event, which is used to determine the local share, based on the amount of applicable taxes imposed by the cities or counties that comprise the corporation and not on the amount of taxes imposed by corporation. Requires that the corporation pledge its own funds toward the local share.

Expands the list of events that are eligible to receive funding through the events trust fund program.

**Prohibition on Debit Card Surcharges—S.B. 641**

*by Senator Schwertner—House Sponsor: Representative Raney*

H.B. 3068 (Menéndez; SP: Carona), 83rd Legislature, Regular Session, prohibits a merchant from imposing a surcharge on a customer who pays for goods or services with a debit card. This change in law was made to afford the same protections enjoyed by purchasers using credit cards to those using debit cards. Specifically, the statute protects consumers from surprise surcharges and discourages financial alliances between large stores and large banks that would steer consumers towards those particular banks.

Despite the passage of these protections, many merchants continue to impose surcharges on debit card users. Some merchants have even disregarded the attempts by the Texas Department of Banking (DOB) to educate them about the law.

Unfortunately, while H.B. 3068 prohibited debit card surcharges, it did not provide DOB or the attorney general with enforcement authority. As a result, the state lacks the ability to ensure that merchants comply with current law and that consumers using debit cards are protected. This bill:

Provides that a person who knowingly violates the prohibition against imposing a surcharge for the use of a debit or stored value card is liable to the state for a civil penalty in an amount not to exceed $500.

Authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring a suit to recover the civil penalty and an action in the name of the state to restrain or enjoin a person from violating the prohibition.
Requires the attorney general or prosecuting attorney, before bringing the action, to give the person notice of the noncompliance and liability for a civil penalty. Requires that the notice advise the person of the prohibition and state that the person may be liable for a civil penalty for a subsequent violation.

Provides that if the person complies not later than the 30th day after the date of the notice, the violation is cured and the person is not liable for the civil penalty. Provides that a person who has previously received notice of noncompliance is not entitled to notice of or the opportunity to cure a subsequent violation.

Entitles the attorney general or the prosecuting attorney to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including reasonable attorney's fees, court costs, and investigatory costs.

Relationship Between a Franchisor and Franchisee—S.B. 652
by Senator Schwertner—House Sponsor: Representative Farney et al.

In a franchisor-franchisee relationship, a franchisor sells a business model, marketing, name recognition, and other elements of business strategy and goodwill to a franchisee for a fee, while the franchisee has control over the day-to-day operations of the business, including employee relations, payroll, workplace safety, facilities maintenance, and compliance with relevant state and federal laws. The franchisee is responsible for all employment decisions regarding employees of the franchisee, and the franchisor has no interaction with or authority over the franchisee's employees. Recent decisions by the National Labor Relations Board (NLRB) have expanded the definition of an "employer," and called into question the common understanding of a franchisor-franchisee relationship, thus opening the door to lawsuits against franchisors for the actions of franchisees. This bill:

Provides that a franchisor is not considered to be an employer of a franchisee or a franchisee's employees, save in instances in which a court of competent jurisdiction has found that a franchisor has exercised a type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Burial Benefits Under the Workers' Compensation System—S.B. 653
by Senator Eltife—House Sponsor: Representative Oliveira

The Texas Workers' Compensation Act provides for various types of indemnity benefits payable to injured employees and their beneficiaries. One of these types of indemnity benefits, burial benefits, compensates the person who pays for the burial of an employee in the case of compensable occupational death.

Although the statute allows for the compensation of burial expenses up to $6,000 per claim, or the actual cost incurred for reasonable burial expenses, whichever is less, typical burial costs exceed the maximum benefit. This bill:

Increases the amount payable under a burial benefits claim from $6,000 to $10,000.
Own Risk and Solvency Assessment—S.B. 655
by Senator Eltife—House Sponsor: Representative Smithee

The Texas Department of Insurance (TDI) regulates insurance carriers and the relationships between insurance companies and their affiliates. TDI also strives to monitor the financial condition and risk profiles of holding company systems, which are groups of affiliated insurance carriers or other entities under common ownership or control. For example, a single group of affiliates may be engaged in a variety of activities including insurance, banking, real estate, and securities. It is one of the most common business structure through which an entity owns an insurance company.

TDI monitors the financial condition and risk profiles of holding company systems because risks posed by noninsurance operations can potentially spread within a group and negatively impact the financial condition of affiliated insurance companies. For example, financial harm caused by a group's banking, real estate, or securities activities may negatively impact the financial health of its affiliated insurers.

An own risk and solvency assessment (ORSA) is an internal assessment by the insurer of the risks associated with the current business plan of an insurer or an insurance group as well as the amount of capital resources available to support that risk. An ORSA is meant to proactively and continually assess the overall solvency needs of large carriers. The insurance commissioners of 50 states, through the National Association of Insurance Commissioners (NAIC), recently adopted the ORSA Model Act in response to the 2008 financial crisis that devastated the global market. Under the act, insurers are required to supply a summary of the ORSA report to their respective state insurance department, which provides the department with a better understanding of the financial status and needs of large insurers and their affiliate companies. This bill:

Adds Chapter 830 (Own Risk and Solvency Assessment) to the Insurance Code based on NAIC's ORSA Model Act to provide the requirements for maintaining a risk management framework and completing an ORSA and to provide guidance and instructions for filing an ORSA summary report with the commissioner of insurance (commissioner).

Provides that the ORSA summary report will contain confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. Provides that this information will include proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. Provides that the summary report is a confidential document filed with the commissioner, and provides that the commissioner may share the summary report only in order to assist the commissioner in the performance of the commissioner's duties. Provides that an ORSA summary report is not subject to public disclosure in any event.


Requires an insurer to maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on the insurer's material and relevant risks. Provides that this requirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.
Requires an insurer to maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on the insurer's material and relevant risks. Provides that this requirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

Requires an insurer or insurance group of which the insurer is a member to regularly conduct, consistent with a process comparable to the guidance manual, an ORSA, appropriate to the nature, scale, and complexity of the insurer or insurance group, of the material and relevant risks associated with the insurer's or insurance group's current business plan and the sufficiency of capital resources to support those risks.

Requires the insurer or the insurance group of which the insurer is a member to conduct the ORSA annually and at any other time there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

Requires an insurer, on the commissioner's request, to submit to the commissioner a summary report or a combination of reports that together contain the information described in the guidance manual. Prohibits the commissioner from making a request under this subsection more than once each year. Sets forth certain requirements regarding the summary report.

Provides that an insurer is exempt from these requirements if certain conditions are met as set forth.

Sets forth provisions regarding confidential and privileged information.

Provides that an insurer that, without good cause, fails to timely file the summary report as required commits a violation subject to an administrative penalty.

Sale of Alcoholic Beverages in Certain Municipalities—S.B. 680
by Senator Nelson—House Sponsor: Representative Capriglione

Voters in the city of Grapevine have approved on-premise sale of wine, beer, and mixed drinks and off-premise sale of beer and wine. Grapevine has land in Dallas, Denton, and Tarrant counties, which treat alcohol sales inconsistently. Legislation is needed to conform the treatment of alcoholic beverage sales in the multi-county jurisdiction of the City of Grapevine. This bill:

Is bracketed to the City of Grapevine.

Provides that, notwithstanding any other law, an area annexed to the City of Grapevine assumes the wet or dry status of the City of Grapevine; and an area contiguous to and owned by the City of Grapevine assumes the wet or dry status of the City of Grapevine.

Regulation of Certain Real Estate Professionals—S.B. 699
by Senators Eltife and West—House Sponsor: Representative Kuempel

The Real Estate License Act (Chapter 1101, Occupations Code), which pertains to the licensing of real estate agents and brokers, is in need of cleanup to address and clarify issues pertaining to terminology,
licensing, education, the recovery fund, Texas Real Estate Commission (TREC) promulgated contracts and forms, TREC members and employees, and TREC complaint, investigation, and enforcement procedures. This bill:

Changes references to "salesperson" to "sales agent." Updates definitions to explicitly include negotiating a lease-purchase deal and advising a property owner concerning the negotiation of a short sale to the list of services that require a broker license.

Replaces references to "core real estate courses" with "qualifying real estate courses" and modifies instruction requirements regarding certain qualifying real estate courses to include class hours of instruction, rather than classroom instruction. Provides that a daily course segment for a qualifying course may not exceed 12 hours.

Prohibits an applicant, license holder, or education provider from reporting to the commission the completion of an alternative delivery or correspondence course offered as a qualifying course until the elapsed time between the time the applicant or license holder registers for the course and the time the completion of the course is reported exceeds twice the number of hours for which credit is claimed.

Entitles members of the commission to quasi-judicial immunity from suit for an action that is taken as a member of the commission and is in compliance with the law.

Requires that information or material prepared or compiled by TREC in connection with a complaint, investigation, or audit of a real estate broker or sales agent be kept confidential and not subject to disclosure under public information requests. Provides that such information may be disclosed to certain individuals and entities related to the action, and that the information is subject to disclosure under public information requests after the dismissal or final resolution of the proceeding.

Provides that a person is not engaged in real estate brokerage, regardless of whether the person is licensed under this chapter, based solely on engaging in the following activities:
- constructing, remodeling, or repairing a home or building;
- sponsoring, promoting, or managing, or otherwise participating as a principal, partner, or financial manager of, an investment in real estate; or
- entering into an obligation to pay another person that is secured by an interest in real property.

Revises certain provisions regarding public interest information and complaint procedures.

Provides that an applicant for a real estate license who fails the examination three consecutive times may not apply for reexamination or submit a new license application unless the applicant submits evidence satisfactory to the commission that the applicant has completed additional education, as prescribed by the commission, since the date of the applicant's last examination.

Requires the commission to publish guidelines and examination study guides, make the guidelines and study guides available to applicants, and update the guidelines and study guides as necessary.
Direct Access to 9-1-1 Service From Certain Telephone Systems—S.B. 788
by Senator Eltife et al.—House Sponsor: Representative Paddie

In 1968, Congress established "9-1-1" as a universal emergency number, although it took many years for it to be implemented nationwide. Generations of children have been taught to call 9-1-1 in emergency situations. Unfortunately, some multiline telephone systems in hotels and other establishments are programmed to require a person to first dial "9" to get an outside line.

On December 1, 2013, Kari Hunt agreed to bring her children to meet her estranged husband in a Marshall, Texas, motel room, but the meeting turned violent. Hunt's oldest daughter, just nine years old at the time, did what she had been taught to do in case of an emergency. She made multiple attempts to call 9-1-1 but could not get through because she did not know to first dial "9." Kari Hunt died of her injuries before help arrived. This bill:

Requires that this Act be known as Kari's Law.

Requires a business service user that owns or controls a telephone system or an equivalent system that uses Internet Protocol enabled service and provides outbound dialing capacity or access to configure the telephone system or equivalent system to allow a person initiating a 9-1-1 call on the system to directly access 9-1-1 service by dialing the digits 9-1-1 without an additional code, digit, prefix, postfix, or trunk-access code.

Requires a business service user that provides residential or business facilities, owns or controls such a telephone system to configure the system to provide a notification to a central location on the site of the residential or business facility when a person within the residential or business facility dials 9-1-1 if the system is able to be configured to provide the notification without an improvement to the system's hardware.

Requires the Commission on State Emergency Communication (CSEC) or the applicable emergency communication district to grant a one-year waiver of the requirements under this section to a business service user under certain conditions.

Authorizes CSEC to adopt rules to implement these provisions for areas that are governed by a regional plan, and authorizes an emergency communication district to adopt such rules.

Requires CSEC, an emergency communication district, or a home-rule municipality that independently operates a 9-1-1 system to provide assistance to a business service user that is within the applicable governmental entity's jurisdiction in complying with these provisions on request.

Grant Program to Reduce Wait Times for Border Inspections—S.B. 797
by Senators Lucio and Hinojosa—House Sponsor: Representative Guerra

Agents working for the United States Customs and Border Protection and the United States Department of Agriculture are currently responsible for agricultural inspections at commercial points of entry. Interested parties contend that the lack of a sufficient number of these federal inspectors has caused exceptional congestion in the stream of commerce affecting the state. Because Mexico's new super highway between
Mazatlan and Matamoros is expected to divert significant amounts of produce from Arizona to Texas' points of entry, it is essential that the state help ease congestion in the stream of international commerce. This bill:

Authorizes the Texas Department of Agriculture (TDA) to make a grant to a nonprofit organization for the purpose of promoting the agricultural processing industry in this state by reducing wait times for agricultural inspections of vehicles at ports of entry along the border with the United Mexican States using money appropriated for this purpose or money received under provisions of the bill.

Requires TDA to request proposals for the award of a grant under Section 12.050 (Trade Agricultural Inspection Grant Program), Agriculture Code. Requires TDA to evaluate the proposals and award a grant based on the proposed program's quantifiable effectiveness and the potentially positive impact on the agricultural processing industry in this state.

Requires that a grant awarded under Section 12.050, Agriculture Code, be made to an organization that has demonstrated experience working with border inspection authorities to reduce border crossing wait times.

Authorizes a grant recipient to use grant money received under Section 12.050, Agriculture Code, only to pay for activities directly related to the purpose of the grant program as described by provisions of the bill. Authorizes a grant recipient to use grant money to reimburse a federal governmental agency that, at the request of the grant recipient, provides additional border agricultural inspectors or pays overtime to border agricultural inspectors at ports of entry along the border with the United Mexican States.

Requires TDA to establish procedures to administer the grant program, including a procedure for the submission of a proposal and a procedure to be used by TDA to evaluate a proposal.

Requires TDA to enter into a contract that includes performance requirements with each grant recipient. Requires TDA to monitor and enforce the terms of the contract. Requires the contract to authorize TDA to recoup grant money from a grant recipient for failure of the grant recipient to comply with the terms of the contract.

Authorizes TDA to solicit and accept gifts, grants, and donations from any source for the purpose of awarding grants under Section 12.050, Agriculture Code.

Authorizes TDA to adopt any rules necessary to implement provisions of the bill.

Sale of Distilled Spirits by Holders of Distiller’s and Rectifier’s Permits—S.B. 808

by Senator Eltife—House Sponsor: Representative Smith

S.B. 905 (Van de Putte et al.; SP: Kuempel) 83rd Legislature, Regular Session, 2013, amended Chapter 14, Alcoholic Beverage Code, to authorize a distillery located in a "wet" area to sell products directly to consumers; distribute samples on the distillery's premises; and sell up to two commemorative bottles for off-premise consumption. The references in S.B. 905 to a "wet" area lack clarity, which has led to inconsistent interpretation by the industry and regulators. This bill:
Removes the requirement that a distiller's and rectifier's permit holder be located in a wet area to collect a fee for samples and sell distilled spirits to an ultimate consumer.

Conditions the authority of a distiller's and rectifier's permit holder to collect a fee for distilled spirits samples on the permitted premises and to sell to ultimate consumers for consumption on the permitted premises distilled spirits manufactured or rectified by the permit holder on the permitted premises being located in an area where the sale of alcoholic beverages is legal as provided by a ballot issue approved by the voters on the legal sale of all alcoholic beverages including mixed beverages, the legal sale of mixed beverages, or the legal sale of mixed beverages in restaurants by food and beverage certificate holders only.

Specifies the ballot language required to have been approved in the area where the permit holder is located to authorize the permit holder to sell to ultimate consumers for both on-premise and off-premise consumption.

**Label Approval for Beer, Ale, and Malt Liquor—S.B. 858**

*by Senator Eltife—House Sponsor: Representative Smith*

State law requires that malt beverages sold in Texas obtain label approval. Brewpubs manufacture such beverages. Recently enacted legislation authorized brewpubs to sell their products to distributors and other retailers upon receipt of label approval, which ensures that such products are properly registered with the state for label and tax purposes.

The Texas Alcoholic Beverage Commission updated its Administrative Rules in August 2014 to reflect this change. Section 101.67 (Prior Approval of Malt Beverages), Alcoholic Beverage Code, lists the types of permittees and licensees that are allowed to apply for and receive label approval on beer, ale, or malt liquor. Brewpub licensees need to be added to the list, thereby codifying what has been in practice since the 83rd Legislature. This bill:

Includes a brewpub licensee among the alcoholic beverage license and permit holders authorized to apply for and receive label approval on beer, ale, or malt liquor.

**Partnerships and Limited Liability Companies—S.B. 859**

*by Senator Eltife—House Sponsor: Representatives Oliveira and Villalba*

Interested parties have asserted that current law does not reflect best practices in partnerships and limited liability companies (LLCs), and that certain statutory provisions need to be updated and clarified. This bill:

Provides that an application for registration of a limited liability partnership accepted by the secretary of state is an effective registration and is conclusive evidence of the satisfaction of all conditions precedent to an effective registration.

Repeals a statutory provision authorizing an effective registration to be renewed before its expiration date. Changes the period that the registration is effective from one year or more, unless the application is withdrawn or revoked at an earlier time or renewed, to until it is withdrawn or terminated. Establishes that the registration of a limited liability partnership, except in a proceeding by the state to terminate the
registration thereof, continues in effect so long as there has been substantial compliance with statutory
provisions relating to the registration generally and with certain annual reporting requirements.

Requires a limited liability partnership that has an effective registration, not later than June 1 of each year
following the calendar year in which the application for registration as a limited liability partnership takes
effect, to file with the secretary of state a report that contains the name of the partnership and the number
of partners of the partnership as of the date of filing of the report or, in the case of any past due annual
reports, the number of partners as of May 31 of each year that a report was due.

Requires the secretary of state, not later than March 31 of each year, to provide to each limited liability
partnership that had an effective registration as of December 31 of the preceding year a written notice
stating that the annual report and applicable filing fee are due on June 1 of that year and the registration of
the partnership will be terminated unless the report is filed and the filing fee is paid on or before the date
prescribed. Requires the secretary of state to impose a fee for filing the annual report in an amount equal to
$200 for each partner on the date of filing the report, or in the case of any past due annual report, $200 for
the number of partners as of May 31 of the year that the report was due.

Establishes that the registration of a limited liability partnership that fails to file an annual report or pay the
required filing fee not later than May 31 of the calendar year following the year on which the report or fee is
due is automatically terminated. Specifies that the termination of registration affects only the partnership's
status as a limited liability partnership and is not an event requiring a winding up and termination of the
partnership. Authorizes a partnership whose registration was terminated for failure to file the annual report
or pay the filing fee to apply to the secretary of state for reinstatement of limited liability partnership status
not later than the third anniversary of the effective date of the termination and sets forth provisions relating
to the reinstatement process.

Provides that a power of attorney is irrevocable for all purposes if the power of attorney is coupled with an
interest sufficient in law to support an irrevocable power and the power of attorney states that it is
irrevocable. Establishes that the irrevocable power of attorney, unless otherwise provided in the power of
attorney, is not affected by the subsequent death, disability, incapacity, winding up, dissolution, termination
of existence, or bankruptcy of, or any other event concerning, the principal.

Limits the applicability of these provisions to:
- a power of attorney with respect to matters relating to the organization, internal affairs, or
termination of a limited liability company;
- a power of attorney granted by a person as a member of or assignee of or a person seeking to
become a member of or assignee of a membership interest in a limited liability company;
- a power of attorney with respect to matters relating to the organization, internal affairs, or
termination of a partnership; or
- a power of attorney granted by a person as a partner of or a transferee or assignee of or a person
seeking to become a partner of or a transferee or assignee of a partnership interest in a
partnership.

Establishes that a power of attorney granted to a limited liability company, a member of the company, or
any of their respective officers, directors, managers, members, partners, trustees, employees, or agents or
that a power of attorney granted to a partnership, a partner of the partnership, or any of the partnership's
respective officers, directors, managers, members, partners, trustees, employees, or agents is conclusively presumed to be coupled with an interest sufficient in law to support an irrevocable power.

Excludes the term "majority-in-interest," as defined in certain provisions, from a provision prohibiting a partnership agreement or the partners from waiving or modifying certain general provisions of the Business Organizations Code.

Creates an exception to the requirement that a general partner file a certificate of amendment reflecting a change in the address of the registered office or a change in the name or address of the registered agent of the limited partnership if the registered agent of a filing entity or foreign filing entity files the required statement of such change in accordance with statutory provisions related to the filing.

Repeals a statutory provision limiting the applicability of statutory provisions relating to meetings of and voting by limited liability companies to the governing authority of a limited liability company, the members of a limited liability company if the members do not constitute the governing authority of the company, and a committee of the governing authority of a limited liability company.

**Corporations and Fundamental Business Transactions—S.B. 860**

*by Senator Eltife—House Sponsor: Representatives Oliveira and Villalba*

Current law does not reflect best practices in corporations and fundamental business transactions. Technical changes are needed to clarify related provisions and authorizations and to correct newly identified ambiguities in the Business Organizations Code to ensure that Texas remains a leader in providing businesses with a clear statutory framework reflective of updated corporate practices. This bill:

Defines "owner liability" as personal liability for a liability or other obligation of an organization that is imposed on a person:

- by statute solely because of the person's status as an owner or member of the organization; or
- by a governing document of an organization under a provision of this code or the law of the organization's jurisdiction of formation that authorizes the governing document to make one or more specified owners or members of the organization liable in their capacity as owners or members for all or specified liabilities or other obligations of the organization.

Amends the statutory prohibitions against a domestic entity's merger or conversion and against a plan of exchange being effected if the merger, conversion, or interest exchange results in certain liability for an owner or member of that entity without the owner's or member's consent to base the prohibitions on such an owner or member becoming subject to owner liability, rather than becoming personally liable, without the owner's or member's consent.

Modifies the signature authorization for execution of a for-profit corporation's certificate of amendment and of a professional or for-profit corporation's restated certificate of formation, if shares of the corporation have not been issued and the certificate of amendment or restated certificate of formation, as applicable, is adopted by the corporation's board of directors, to authorize the signature of one or more directors, rather than a majority of the directors, on the certificate.
Revises the exemption to the requirement for the ownership interests in a for-profit corporation, real estate investment trust, or professional corporation to be certificated by providing that such certification is not required except to the extent that a governing document of the entity or a resolution adopted by the entity's governing body specifies that some or all of the classes or series of the ownership interests are uncertificated or that some or all of each of the classes or series of the ownership interests are uncertificated. Authorizes a for-profit corporation, real estate investment trust, or professional corporation to have outstanding both certificated and uncertificated ownership interests of the same class or series.

Requires that a plan of merger include, among other required information, the identification of any of the ownership or membership interests of an organization that is a party to the merger that are to remain outstanding rather than converted or exchanged if the organization survives the merger.

Provides that any of the terms of a plan of merger, plan of exchange, or plan of conversion may be made dependent on facts ascertainable outside of the plan, as applicable, if the manner in which those facts will operate on the terms of the merger is clearly and expressly stated in the plan.

Provides that a plan of merger may include restatements of or amendments and restatements of the governing documents of any surviving organization, including a certificate of amendment or a restated certificate of formation with or without amendments, as applicable.

Provides that when a merger takes effect, a certificate of amendment, a restated certificate of formation without amendment, or a restated certificate of formation containing amendments of a surviving filing entity will supersede the original certificate of formation and each prior amendment or restatement of the certificate of formation, with the restated certificate of formation becoming the effective certificate of formation, and establishes that the ownership or membership interests of each organization that is a party to the merger that are to remain outstanding will remain outstanding as provided in the plan of merger.

Requires that a certificate of merger include, if such a certificate is required to be filed in connection with a merger other than a short form merger, among other required information:

- the amendments or changes to the certificate of formation of any filing entity that is a party to the merger, or a statement that amendments or changes are being made to the certificate of formation of any filing entity that is a party to the merger as set forth in a restated certificate of formation containing amendments or a certificate of amendment attached to the certificate of merger; or
- if no amendments or changes to the certificate are made, a statement to that effect, which may also refer to a restated certificate of formation attached to the certificate of merger.

Provides that a certificate of merger so filed may include as an attachment a certificate of amendment, a restated certificate of formation without amendment, or a restated certificate of formation containing amendments for any filing entity that is a party to the merger.

Removes the specification of a signature on the plan of merger, exchange, or conversion that may be certified by a statement included in a filed certificate of merger, exchange, or conversion as being on file at the principal place of business of each surviving, acquiring, new domestic entity or non-code organization, or converting entity, or in the case of a plan of conversion, certified that it will be on file after the conversion at the principal place of business of the converted entity.
Entitles an owner of an interest in a domestic entity subject to dissenters' rights to dissent from a merger effected under a plan of merger that, under certain circumstances, does not require approval by the shareholders of the corporation if, in that merger, the shares of the shareholders are converted or exchanged.

Excludes a corporation that is party to such a merger in which a plan of merger does not require shareholder approval from the application of the provision prohibiting an owner's dissent from a plan of merger or conversion in which there is a single surviving or new domestic entity or non-code organization, or from a plan of exchange, under certain conditions.

Requires the responsible organization, if a corporation effects a merger under a plan of merger that does not require shareholder approval, to notify those shareholders who have a right to dissent to the plan of merger of their rights not later than the 10th day after the merger's effective date and sets out related provisions for the content and delivery of such notice.

Adds as an alternative to the deadlines by which an owner, in order to perfect the owner's rights of dissent and appraisal, must give to the responsible organization a demand in writing for payment of the fair value of the ownership interests for which the rights of dissent and appraisal are sought, a deadline of not later than the 20th day after the date the responsible organization gives to the shareholder the required notice of the right of dissent and appraisal or the date of the consummation of the tender or exchange offer for all of the corporation's outstanding shares on the terms provided in the plan of merger that would be entitled to vote on the approval of the plan of merger, whichever is later, if the action is a merger effected under a plan of merger that does not required approval by the corporation's shareholders.

Provides that a certificate of termination, a certificate of reinstatement, a certificate of amendment to cancel an event requiring winding up, or a restated certificate of formation that contains an amendment to cancel an event requiring winding up may be signed by one of the organizers or one of the directors if the winding up, reinstatement, or cancellation of an event requiring winding up was authorized by the organizers or the board of directors, as applicable.

Provides that statutory provisions establishing procedures for adoption of an amendment to a certificate of formation do not affect the authority of a domestic for-profit corporation's shareholders to consent in writing to the cancellation of an event requiring winding up or the authority of the organizers of a domestic for-profit corporation to adopt a resolution to cancel such an event.

Authorizes the board of directors of a domestic for-profit corporation that has outstanding shares to adopt without shareholder approval an amendment to the corporation's certificate of formation to change the word or abbreviation in its corporate name required by law to identify the type of entity to a different word or abbreviation as provided by law.

Authorizes the shareholders of a domestic for-profit corporation that has outstanding shares to give written consent or the organizers to adopt a resolution to authorize a restated certificate of formation that contains an amendment to cancel an event requiring winding up, as an alternative to the procedures for a domestic for-profit corporation's adoption of a restated certificate of formation.

Requires that any limit on the term or duration of a domestic for-profit corporation's shareholders' agreement be set forth in the agreement. Removes a provision establishing the validity of such a
shareholders' agreement for a period of 10 years. Establishes that a shareholders' agreement that was in effect before September 1, 2015, remains in effect for 10 years, unless the agreement provides otherwise.

Provides that the amount of the consideration to be received for shares of a domestic for-profit corporation may be determined by the board of directors, a plan of conversion, or plan of merger, as applicable, by means of approval of a formula to determine that amount.

Provides that a domestic for-profit corporation's bylaws may require one or both of the following:
- that, when soliciting proxies or consents with respect to an election of directors, the corporation include in both its proxy statement and any form of its proxy or consent one or more individuals nominated by a shareholder in addition to individuals nominated by the board of directors; or
- that the corporation reimburse expenses incurred by a shareholder in soliciting proxies or consents with respect to an election of directors so long as the reimbursement requirement does not apply to any election for which the record date precedes that requirement's adoption.

Sets forth conditions under which a plan of merger is not required to be approved by a corporation's shareholders, unless such approval is required by the corporation's certificate of formation, and specifies that these provisions apply only to a domestic for-profit corporation that is a party to the merger and whose shares are, immediately before the date its board of directors approves the plan of merger, either listed on a national securities exchange or held of record by at least 2,000 shareholders.

Removes the specification that the authority to adopt a restated certificate of formation is vested in a domestic nonprofit corporation's board of directors, instead vesting that authority in the domestic nonprofit corporation, and provides as an alternative to the procedures for a domestic nonprofit corporation's adoption of such a certificate for the corporation's members to give written consent, or for the corporation's organizers to adopt a resolution, to authorize a restated certificate of formation that contains an amendment to cancel an event requiring winding up.

Establishes that, if a domestic nonprofit corporation has no members or has no members with voting rights and the corporation does not hold any assets and has not solicited any assets or otherwise engaged in activities, the vote required for approval of a fundamental action consisting of an amendment to the certificate of formation to cancel an event requiring winding up or for approval of certain other fundamental actions is the affirmative vote of a majority of either the organizers or of the directors in office.

Applies the statutory requirement for a domestic nonprofit corporation with no members or with no members with voting rights to approve a voluntary winding up, reinstatement, cancellation of an event requiring winding up, revocation of a voluntary decision to wind up, or distribution plan by means of a resolution adopted by an affirmative vote of a majority of the corporation's board of directors only to a corporation that holds any assets or has solicited any assets or otherwise engaged in activities. Provides that approval of such actions by a corporation that does not hold any assets and has not solicited any assets or otherwise engaged in activities requires a majority of either the corporation's organizers or its board of directors to adopt such a resolution by an affirmative vote of that majority.

Establishes that a defective corporate act or putative shares are not void or voidable solely as a result of a failure of authorization if the act or shares are ratified in accordance with these provisions or validated by the district court.
Requires the board of directors of the domestic for-profit corporation, in order to ratify a defective corporate act, to adopt a resolution stating:

- the defective corporate act to be ratified; the time of the defective corporate act;
- if the defective corporate act involved the issuance of putative shares, the number and type of putative shares issued and the date or dates on which the putative shares were purportedly issued;
- the nature of the failure of authorization with respect to the defective corporate act to be ratified; and
- that the board of directors approves the ratification of the defective corporate act.

Provides that the resolution may also state that, notwithstanding the adoption of the resolution by the shareholders, the board of directors at any time before the validation effective time may abandon the resolution without further shareholder action. Sets forth quorum and voting requirements for the adoption of such a resolution and provisions relating to the requirement for shareholder adoption of the resolution, notice requirements for a resolution submitted for shareholder approval, the shareholder meeting and its quorum and voting requirements, and requirements for the filing of a certificate of validation.

Provides that each defective corporate act set forth in the adopted resolution, unless determined otherwise in an action regarding the act's validity, on or after the validation effective time, may not be considered void or voidable as a result of a failure of authorization identified in the resolution and requires the effect to be retroactive to the time of the defective corporate act.

Provides that each putative share or fraction of a putative share issued or purportedly issued pursuant to the defective corporate act and identified in the resolution, unless determined otherwise in an action regarding the act's validity, on or after the validation effective time, may not be considered void or voidable as a result of a failure of authorization identified in the resolution and, in the absence of any failure of authorization not ratified, specifies that such shares or fractions are considered to be an identical share or fraction of a share outstanding as of the time it was purportedly issued. Requires that shareholders be notified regarding the resolution's adoption.

Provides that, in the absence of actual fraud in the transaction, the judgment of the board of directors of a domestic for-profit corporation that shares of the corporation are valid shares or putative shares is conclusive, unless otherwise determined by the district court in a proceeding regarding the validity of defective corporate acts and shares.

Provides that ratification or validation of an act or transaction may not be considered to be the exclusive means of ratifying or validating any act or transaction taken by or on behalf of the corporation, including any defective corporate act or any issuance of putative shares or other shares. Establishes that the absence or failure of ratification or of validation of an act or transaction may not, of itself, affect the validity or effectiveness of any act or transaction or the issuance of any shares properly ratified under common law or otherwise and does not create a presumption that any such act or transaction is or was a defective corporate act or that those shares are void or voidable.

Authorizes the corporation, any successor entity to the corporation, any member of the corporation's board of directors, and any record or beneficial holder of valid shares or putative shares of the corporation, any record or beneficial holder of valid shares or putative shares as of the time a defective corporate act was ratified, or any other person claiming to be substantially and adversely affected by a ratification to bring an action regarding the validity of defective corporate acts and shares. Provides exclusive jurisdiction to hear
and determine any action brought under these provisions to the district court in the county in which the corporation's principal office in Texas is located or, if the corporation does not have a principal office in Texas, the county in which the corporation's registered office in Texas is located; sets forth provisions relating to the proceedings; and establishes a statute of limitations prohibiting specified actions from being brought after the expiration of the 120th day of the validation effective time.

Development of the Wine Industry in Texas—S.B. 880

by Senator Nelson—House Sponsor: Representative Geren

The wine industry is a significant economic driver and has a positive impact on the Texas economy, providing the state with 11,000 jobs. This bill:

Expands the duties of the wine industry development advisory committee (committee) to include assisting and advising the commissioner of agriculture (commissioner) in determining the best and most productive and efficient expenditures of the wine industry development fund.

Modifies the composition of the committee. Requires the committee, not later than September 1 of each year, to provide the commissioner with a written report containing:

- a summary of the committee's discussions, conclusions, and recommendations from the fiscal year preceding that date;
- a proposed schedule and plan of action for the fiscal year beginning on that date designed to implement and further the objectives of Chapter 50B (Texas Wine Industry Development Act), Agriculture Code, and Chapter 110 (Texas Wine Marketing Assistance Program in Department of Agriculture), Alcoholic Beverage Code;
- a proposed budget and prioritized spending plan for expenditures of the wine industry development fund; and
- other information requested by the commissioner or determined by a majority of the committee to be appropriate for inclusion in the report.

Requires the commissioner, not later than November 1 of each year, to prepare for the current fiscal year the schedule and plan of action and budget and prioritized spending plan, considering the recommendations of the committee and following them to the extent the commissioner considers appropriate.

Dedication of Certain Wine-Related Revenue—S.B. 881

by Senator Nelson—House Sponsor: Representative Springer et al.

The economic impact of the Texas wine industry increased dramatically to over $1.8 billion annually in 2013, and the industry employs more than 11,000 people. A total of $85 million in state and local taxes were collected in 2013 from the industry—a 117 percent increase over 2005. S.B. 1370 (Madla; SP: Truitt), 79th Legislature, Regular Session, 2005, dedicated a specific amount of revenue, raised through wine sales and excise taxes, to a number of key research projects that helped propel the industry to its current status. S.B. 881 renews this funding by working with the Texas Department of Agriculture (TDA) to direct a small portion of the wine sales and excise tax revenue to specific viticulture and enology research projects within several of our state universities. This bill:
Requires that certain revenue from wine excise taxes as described, notwithstanding Section 205.02 (Disposition of Receipts), Alcoholic Beverage Code, be appropriated for each state fiscal year only as specified by the conditions set forth. Authorizes that an amount specified in the conditions set forth be appropriated only to Texas A&M AgriLife Extension Service, rather than be appropriated only to the Texas Cooperative Extension for extension viticulture operations, the Texas Tech University Viticulture and Enology program, the Texas Wine Research Institute at Texas Tech University, the Texas Tech University Viticulture and Enology program, the T. V. Munson Viticulture and Enology Center at Grayson Community College, and the Wine Industry Development Fund.

Authorizes that any remaining revenue that is not otherwise appropriated be appropriated for deposit into the Wine Industry Development Fund for the purposes set forth.

**Regulation of Money Services Businesses—S.B. 899**  
*by Senator Eltife—House Sponsor: Representative Stephenson*

Chapter 151 (Regulation of Money Services Businesses), Finance Code, applies to money services businesses (MSBs). Chapter 151 divides MSBs into two types: currency exchangers and money transmitters. Under Chapter 151, MSBs are regulated by the Texas Department of Banking (DOB). Due to the constantly evolving nature of this industry, it has become routine for DOB to support minor changes to the law during each legislative session. DOB has identified several provisions that could benefit from clarification, including a potential loophole under current law and a consumer protection provision that has become outdated as the industry has expanded beyond its original scope. This bill:

Conditions the exemption from licensure requirements under the Money Services Act for a person engaged in the business of currency transportation who is both a registered motor carrier and a licensed armored car company or courier company on the person only transporting currency from a person to the same person at another location or to a financial institution to be deposited in an account belonging to the same person.

Clarifies language in the Money Services Act specifying the activities for which a person is required to hold a money transmission license. Repeals a statutory provision defining "receive" for purposes of such provisions.

Removes a requirement that each applicant for a currency exchange license provide and each currency exchange license holder maintain at all times security in the amount of $2,500 and instead conditions the amount of security required on the type of transactions conducted and the volume of business. Requires an applicant to provide, and a license holder to maintain, security in the amount of $2,500 if the applicant will conduct, or the license holder conducts, business with persons located in Texas exclusively at one or more physical locations through in-person, contemporaneous transactions. Requires an applicant to which the $2,500 security requirement does not apply to provide security in the amount that is the greater of $2,500 or an amount equal to one percent of the applicant's projected total dollar volume of currency exchange business in Texas for the first year of licensure. Requires a license holder to which the $2,500 security requirement does not apply to maintain security in the amount that is the greater of $2,500 or an amount equal to one percent of the license holder's total dollar volume of currency exchange business in Texas for the preceding year. Limits the maximum amount of security that may be required to $1 million.
Modifies the list of persons exempted from certain requirements relating to the change of control of a money transmission license holder or currency exchange license holder.

Clarifies that an offense under the Money Services Act may be prosecuted in Travis County or in the county in which the offense is alleged to have been committed.

**Temporary Income Benefits for Certain Injured Employees—S.B. 901**
*by Senator Eltife—House Sponsor: Representative Collier et al.*

Temporary income benefits (TIBs) are the first level of income benefits that an injured employee may receive after being injured at work under the workers’ compensation system. TIBs are calculated as a portion of the injured employee’s average weekly wage less post-injury earnings.

The maximum wage threshold has not been modified since its initial enactment, and since that time, the minimum wage and the state poverty level minimum wage rates have increased. This threshold is no longer adequate in providing injured workers with the income assistance necessary while being temporarily out of work. This bill:

Raises from $8.50 an hour to $10 an hour the maximum wage threshold under which an injured employee is entitled to a temporary income benefit under the Texas Workers’ Compensation Act, for the first 26 weeks after the injury, in an amount equal to 75 percent of the amount computed by subtracting the employee’s weekly earnings after the injury from the employee’s average weekly wage.

**Flexible Hours and Telecommuting for State Employees—S.B. 1032 [VETOED]**
*by Senators Watson and West—House Sponsor: Representative Israel*

State employees who wish to work from home are required to obtain approval from the head of the employee’s agency or department on a case-by-case basis. The parties point out that this law makes it difficult for state agencies to develop telework and flexible-hour policies that allow employees to work from home and predict that such a policy could help lessen traffic congestion in areas with high concentrations of state employees, among other benefits. This bill:

Authorizes the administrative head of a state agency to adopt an agency policy that authorizes the supervisor of an employee of the agency to permit the employee to work from an alternative work site, including the employee’s residence, as the employee’s regular or assigned temporary place of employment.

Requires that such a policy:
- identify factors the state agency will consider in evaluating whether a position is suitable for an alternative work site, including whether the position requires on-site resources, whether the provision of in-person service is essential to the position, and whether in-person interaction is essential to the position;
- require an employee who will work from an alternative work site to enter into an agreement with the agency that establishes the employee’s responsibilities and requirements for communicating with and reporting to the agency; and
• provide for the revocation of an employee's permission to work from an alternative work site if the position is no longer suitable for an alternative work site based on the identified factors or the employee violates the agreement between the employee and the agency.

Requires the Department of Information Resources (DIR), not later than November 1 of each even-numbered year, to compile and submit a report to the legislature regarding the agencies that have adopted an alternative work site policy. Authorizes the Texas A&M Transportation Institute to assist in creating the report.

Requires that the report include:

• a list of agencies that have adopted a policy;
• a description of the policies' requirements;
• an estimate of the number of employees who work from an alternative work site under a policy;
• an assessment of the productivity, efficiency, and value to taxpayers of employees working from an alternative work site under a policy;
• an assessment regarding the policies’ effect on congestion; and
• any other information DIR determines to be relevant and beneficial.

Authorizes a state employee who works from an alternative work site as part of an approved agency policy, with the approval of the employee's supervisor, to complete all or part of the employee's working hours, including compensatory time and overtime, at times other than the regular working hours established for state employees. Subjects an employee who works from an alternative work site to existing agency compensatory time and overtime policies.

**Definition of Person Under the Uniform Commercial Code—S.B. 1077**

*by Senator Eltife—House Sponsor: Representatives Parker and Oliveira*

A "series" limited liability company (SLLC) is a form of a limited liability company (LLC) that provides liability protection across multiple "series," each of which is theoretically protected from liabilities arising from the other series. Although SLLCs are provided for in the Business Organizations Code and are defined as not being separate from their connected limited liability companies, a series is authorized to function separately for certain purposes.

The applicability of the Uniform Commercial Code (UCC) to a series within a Texas limited liability company, which depends on how "person" is defined, is not sufficiently clear, although the code has always been assumed to be applicable to such a series. The purpose of the UCC is to make business activities more efficient by standardizing business laws across all states and setting forth model language regarding business entities and transactions. Current Texas statute does not reflect model language for the definition of "person." This bill:

Amends Section 1.201 (General Definitions), Business and Commerce Code, to redefine "person" to include a particular series of a for-profit entity.
Intellectual Property of the Texas Parks and Wildlife Department—S.B. 1132
by Senator Perry—House Sponsor: Representative Murr

In carrying out its mission, the Parks and Wildlife Department (TPWD) may develop inventions, products, or creative works for which it may be appropriate and necessary to obtain intellectual property protection. While TPWD has some authority to license and obtain royalties for certain products, there is a lack of general authority for the protection of TPWD intellectual property. This bill:

Amends the Parks and Wildlife Code to authorize TPWD to apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation a patent for an invention or discovery of, or improvement to, any process, machine, manufacture, or composition of matter; a copyright for an original work of authorship fixed in any tangible medium of expression now known or later developed that can be perceived, reproduced, or otherwise communicated; a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan, or any combination of those items, that has been adopted and used by TPWD to identify goods or services and distinguish those goods or services from other goods or services; or other evidence of protection or exclusivity issued in or for intellectual property. Authorizes TPWD to enter into a contract with an individual or company for the sale, lease, marketing, or other distribution of TPWD intellectual property; to obtain under such a contract a royalty, license right, or other appropriate means of securing appropriate compensation for the development or purchase of TPWD intellectual property; and to waive or reduce the amount of a fee, royalty, or other thing of monetary or nonmonetary value to be assessed by TPWD if TPWD determines that the waiver will further TPWD's goals and missions and result in a net benefit to the state.

Exempts from required disclosure under state public information law intellectual property for which TPWD has applied for or received a patent, copyright, trademark, or other evidence of protection or exclusivity. Requires money paid to TPWD under the bill's provisions to be deposited to the credit of the game, fish, and water safety account or the state parks account, as appropriate. Establishes that it is not a violation of state law for a TPWD employee who conceives, creates, discovers, invents, or develops intellectual property to own or to be awarded any amount of equity interest or participation in the research, development, licensing, or exploitation of that intellectual property with the approval of the Parks and Wildlife Commission. Requires the commission to institute intellectual property policies for TPWD that establish minimum standards for the public disclosure or availability of, review by TPWD of, and the licensing of products, technology, and scientific information; the identification of ownership and licensing responsibilities for each class of intellectual property; and royalty participation by inventors and TPWD.

Authorizing Employment of Children of TABC Employees—S.B. 1228
by Senator Seliger—House Sponsor: Representative Hughes

Current law prohibits a child of a Texas Alcoholic Beverage Commission (TABC) employee from being employed by any business that holds a license or permit issued by TABC. Since many businesses today, such as restaurants and grocery stores, hold a license or permit with TABC, it is increasingly difficult for the child of a TABC employee to find a job during high school or college. This bill:

Provides that a child of a TABC employee may be employed by the holder of a license or permit issued under Section 5.05 (Relationship with Alcoholic Beverage Business Prohibited), Alcoholic Beverage Code.
Requires TABC to establish an agency policy requiring employees to disclose information regarding their children's employment by a holder of a license or permit issued under Section 5.05 (Relationship with Alcoholic Beverage Business Prohibited), Alcoholic Beverage Code.

**Income Distribution From Nonprofit Corporations—S.B. 1233**  
*by Senator Larry Taylor—House Sponsor: Representative Oliveira*

Under current law, nonprofit corporations may partner with other nonprofit corporations to undertake joint venture projects and form a new nonprofit corporation with the initial corporations as members. However, the profit or excess funds from the new joint venture entity cannot be distributed to the members of the joint venture. S.B. 1233 seeks to address this concern by creating an exception to the general prohibition on distributing funds to a nonprofit corporation's members. This bill:

Authorizes a corporation, under Section 22.054 (Authorized Benefits and Distributions), Business Organizations Code, to make distributions of its income to the corporation's members who are nonprofit corporations organized under the Business Organizations Code and who are exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of the Internal Revenue Code of 1986 if the conditions set forth are satisfied.

**Names of Certain Businesses—S.B. 1313**  
*by Senators Watson and West—House Sponsor: Representative Villalba*

Current law regarding business entities prohibits a filing entity and a foreign filing entity from having an identical or deceptively similar name, though an affected entity may consent in writing to the use of the name. However, there could be an issue if a filing entity or foreign filing entity includes a forged document that purports to grant the requisite permission from an existing entity, especially since the secretary of state is not required to take any steps to verify the permission. Even if an existing entity becomes aware of a forgery, there may be difficulty in convincing authorities to prosecute the crime. S.B. 1313 seeks to address these concerns and deter filing entities and foreign filing entities from fraudulently claiming to have obtained an existing entity's consent to use the same or a similar name. This bill:

Amends the Business Organizations Code to prohibit a filing entity from reserving or registering a business name in this state that is the same as, or that the secretary of state determines to be similar to, another name unless the entity for whom the name is reserved or registered, as appropriate, provides to the secretary of state a notarized written statement of the entity's consent to such reservation or registration.

**Jobs and Education for Texans Grant Program—S.B. 1351**  
*by Senator Hinojosa—House Sponsor: Representative Zerwas*

The Jobs and Education for Texans (JET) Grant Program was created by the Texas Legislature to supplement existing capacity-building programs for job seekers. Administration of the program was initially delegated to the comptroller of public accounts of the State of Texas (comptroller). However, experience in administering the JET program underscores the need for more comprehensive understanding of the employment market to best target awards. The Texas Workforce Commission (TWC) administers a variety
of programs designed to equip job seekers for work opportunities, particularly as new industries begin or expand operations in Texas. Those industries often require new employees to be job ready; that is, new employees must have specific training. The transfer of the JET program to TWC would bolster TWC's capacity-building mission and prepare out-of-work Texans for jobs. This bill:

Amends Chapter 134 (Jobs and Education for Texans (JET) Grant Program), Education Code, to transfer the administration of the JET Grant Program from the comptroller to TWC.

Border Commerce Coordinator—S.B. 1389

by Senator Lucio et al.—House Sponsor: Representative Lucio III

The enabling statute of the border commerce coordinator (coordinator), Section 772.010, Government Code, has been amended several times, resulting in inconsistency and confusion regarding the statutory duties of the coordinator. S.B. 1389 updates Section 772.010 in order to clarify the coordinator's duties and facilitate their accomplishment. This bill:

Expands the duties of the coordinator to include studying the flow of commerce at ports of entry between Texas and Mexico, including the movement of commercial vehicles across the border, and establishing a plan to aid that commerce and improve the movement of those vehicles; working to identify problems associated with border truck inspections and related trade and transportation infrastructure and developing recommendations for addressing those problems; working with the appropriate state and federal agencies to develop initiatives to mitigate congestion at ports of entry; and developing recommendations designed to increase trade by attracting new business ventures, to support expansion of existing and new industries, and to address workforce training needs.

Requires the coordinator to work with the interagency work group established under Section 772.011 (Interagency Work Group on Border Issues), Government Code, with local governments, metropolitan planning organizations, and other appropriate community organizations adjacent to the border of this state with Mexico, and with comparable entities in Mexican states adjacent to that border to address the unique planning and capacity needs of those areas. Requires the coordinator to assist those governments, organizations, and entities in identifying and developing initiatives to address those needs. Requires the coordinator, before January 1 of each year, to submit to the presiding officer of each house of the legislature a report of the coordinator's activities during the preceding year.

Requires the coordinator to work with private industry and appropriate entities of Texas and the United States to require that low-sulfur fuel be sold along highways in Texas carrying increased traffic related to activities under the North American Free Trade Agreement, and work with representatives of the government of the Mexico and the governments of Mexican states bordering Texas to increase the use of low-sulfur fuel.

Requires the coordinator to appoint a border mayor task force, to be named the Texas Good Neighbor Committee, consisting of the mayors from every Texas municipality located along the border between Texas and Mexico that has an adjoining sister city in Mexico. Requires the task force to perform certain duties as set forth to assist the coordinator in carrying out the coordinator's statutory duties.
Employment Restrictions for Businesses Selling Alcoholic Beverages—S.B. 1651
by Senator Eltife—House Sponsor: Representative Murr

Historically, grocery stores tend to hold off-premise consumption of alcohol permits, which allows grocery cashiers to be employed at age 16 and age 17 and sell alcohol for off-premise consumption. As grocery stores become more innovative, even incorporating restaurants, Texas Alcoholic Beverage Commission rules hinder the ability of grocery stores to employ 16-year-olds and 17-year-olds as cashiers. In order to offer the service of beer and wine with food for on-premise consumption, the grocery store must hold a different permit that allows for on and off-premise consumption of alcohol, which requires a cashier to be at least 18 years old to sell alcohol. S.B. 1651 allows 16-year-olds and 17-year-olds to work as grocery cashiers in such establishments. This bill:

Authorizes the holder of a permit or license providing for the on-premises consumption of alcoholic beverages that derives less than 50 percent of its gross receipts for the premises from the sale or service of alcoholic beverages to employ a person under 18 years of age to work as a cashier for transactions involving the sale of alcoholic beverages if the alcoholic beverages are served by a person 18 years of age or older.

Regulation of Certain Motor Vehicle Auctions—S.B. 1982
by Senator Kolkhorst—House Sponsor: Representative Goldman

Currently, wholesale auto auctions are conducted in Texas by licensed auctioneers who buy and sell cars from and to licensed auto dealers. Auctioneers are licensed by the Texas Department of Licensing and Regulation (TDLR), while wholesale auto auctions must obtain a license from the Texas Department of Motor Vehicles (TxDMV).

Following an interim study last year by the House Committee on Licensing and Administrative Procedures and a public hearing held by TDLR, it became apparent that wholesale auto auctions are regulated by both TDLR and TxDMV. During the interim hearing and TDLR meeting, no opposition was raised. Under Chapter 1802 (Auctioneers), Occupations Code, there is a list of exemptions from regulation or licensure by TDLR. The purpose of this bill is to end the dual state agency regulation of the wholesale auto auction industry. Such regulation wastes state resources and could possibly create regulatory conflicts between the two agencies. This bill:

Provides that Chapter 1802, Occupations Code, does not apply to a sale of motor vehicles at auction by a person licensed under Chapter 2301 (Sale or Lease of Motor Vehicles) or Chapter 2302 (Salvage Vehicle Dealers), Occupations Code, or a sale of motor vehicles at auction by a person who holds a wholesale motor vehicle auction general distinguishing number or an independent motor vehicle general distinguishing number issued by TxDMV.

Prohibits an individual who is licensed under Chapter 1802, Occupations Code, from acting as an auctioneer for an entity, except as provided by the provisions of this bill, unless the entity is an auction company owned or operated by an individual who is licensed under Chapter 1802, Occupations Code, or is a real estate brokerage firm that is operated by a broker licensed by the Texas Real Estate Commission.
Authorizes an individual who is licensed under Chapter 1802, Occupations Code, to conduct an auction to sell motor vehicles, as defined by Section 501.002 (Definitions) or 502.001 (Definitions), Transportation Code, if the individual conducts the auction for a person who holds a dealer general distinguishing number or wholesale motor vehicle auction general distinguishing number issued under Subchapter B (General Distinguishing Number), Chapter 503, Transportation Code, or a license issued under Subchapter C (License Requirements), Chapter 2302, Occupations Code.
Possessing a Weapon in an Airport Secured Area—H.B. 554
by Representative Springer et al.—Senate Sponsor: Senator Creighton et al.

Under current law, travelers who are found carrying a handgun or certain other weapons into the secured area of an airport are subject to immediate arrest and confiscation of the weapon. Many of the travelers carrying handguns are concealed handgun license (CHL) holders who have grown accustomed to having the handgun and have forgotten that they have the handgun with them. This bill:

Provides that it is a defense to prosecution under Section 46.03 (Place Weapons Prohibited), Penal Code, that the person brought a firearm into the secured area of an airport if:

- weapon was concealed handgun and the actor was a CHL holder; and
- the actor exited the secured area immediately upon completion of the required screening processes and notification that the actor possessed the handgun.

Prohibits a peace officer from arresting such an actor unless:

- the officer advises the actor of the defense and gives the actor an opportunity to exit the screening checkpoint for the secured area; and
- the actor does not immediately exit the checkpoint.

Open Carry of Holstered Handgun by CHL Holder—H.B. 910
by Representative Phillips et al.—Senate Sponsor: Senator Estes et al.

Under current Texas law, persons with a concealed handgun license (CHL) may carry a handgun on their persons, but cannot openly display it. Forty-four states allow some form of open carry. This bill:

Strikes the word "concealed" in various statutory references regarding a license to carry a handgun.

Provides that the handgun proficiency course required in order to qualify for a license to carry a handgun include the use of restraint holsters and methods to ensure the secure carrying of openly carried handguns.

Requires a qualified handgun instructor to be qualified to instruct persons in the use of restraint holsters and methods to ensure the secure carrying of openly carried handguns.

Amends Section 30.06 (Trespass by License Holder of License to Carry Concealed Handgun), Penal Code:

- Strikes the provision making it an offense for a person with a concealed handgun to remain on the property of another without effective consent.
- Reduces such an offense to a Class C misdemeanor, punishable by a fine not to exceed $200, rather than a Class A Misdemeanor.
- Provides that the offense is a Class A misdemeanor if, after entering the property, the license holder was personally given oral notice that entry on the property with a concealed handgun was forbidden and subsequently failed to depart.

Adds Section 30.07 (Trespass by License Holder With an Openly Carried Handgun), Penal Code:

- Makes it an offense for a license holder to openly carry a handgun on property of another without effective consent when the holder received notice that entry on the property by a license holder
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- openly carrying a handgun was forbidden.
- Sets forth the requirements for a "written communication" or sign notifying licensed that openly carrying a handgun on the property is forbidden.
- Provides that an offense under this section is a Class C misdemeanor, punishable by a fine not to exceed $200.
- Provides that an offense is a Class A misdemeanor if, after entering the property, the license holder was personally given oral notice that entry on the property with an openly carried handgun was forbidden and subsequently failed to depart.
- Provides an exception to this section if the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun.
- Provides that it is not a defense to prosecution under this section that the handgun was carried in a shoulder or belt holster.

Amends current law prohibiting a:

- person to intentionally, knowingly, or recklessly carry a handgun in plain view in a motor vehicle or watercraft to exempt a person licensed to carry a handgun and carrying the handgun in a shoulder or belt holster; and
- license holder to intentionally display the handgun in plain view of another person in a public place to exempt handguns in a shoulder or belt holster.

- Expands current law barring a license holder from intentionally, knowingly, or recklessly carrying a concealed handgun on certain premises to include a handgun that is carried in a shoulder or belt holster.

CHLs for Certain Corrections and Probation Officers—H.B. 1376

by Representative Paddie—Senate Sponsor: Senator Eltife

Probation and community supervision officers attend firearm training provided by the Texas Commission on Law Enforcement (TCOLE) in order to carry a gun while on duty. If such officers wish to carry a concealed handgun while off duty, they must obtain a concealed handgun license (CHL). Officers who choose to carry a handgun while off duty must undergo duplicative CHL training before receiving the license. This bill:

- Provides that a supervision officer or juvenile probation officer (officer) may establish handgun proficiency for the purposes of qualifying for a CHL by submitting a sworn statement indicating that the officer, during the 12-month period preceding the date of the CHL application, demonstrated proficiency in the use of handguns.
Reduces the fee for a CHL for an officer to $25.

**Service Weapon of Honorably Retired or Deceased Peace Officer—H.B. 2135**

*by Representative Doug Miller—Senate Sponsor: Senator Watson*

Under current law, individuals who have honorably retired as commissioned peace officers with a state agency or county may purchase their service weapon, provided that it is not a prohibited weapon under Section 46.05 (Prohibited Weapons), Penal Code. In addition, current law allows family members to purchase such a weapon if the commissioned peace officer with a state agency dies while commissioned. Because these provisions exclude whole classes of peace officers, some families who want to honor their family member by purchasing his or her service weapon are unable to do so. This bill:

- Defines "governmental entity" as a state agency, a county, a municipality, or a joint board for which the constituent agencies are populous home-rule municipalities.
- Provides that an honorably retired peace officer may purchase a firearm from a governmental entity, rather than a state agency.
- Replaces references in the relevant statutes to "state agency" with "governmental agency."
- Repeals Section 170.002 (Purchase of Firearm by Honorably Retired Law Enforcement Officer), Local Government Code.

**CHL for Peace Officer or Member of the State Military Forces—H.B. 2604**

*by Representative Dale et al.—Senate Sponsor: Senator Hinojosa*

Current law requires an applicant for a license to carry a concealed handgun (CHL) who is licensed and employed as a peace officer by a law enforcement agency, or a member of the Texas military forces, excluding Texas State Guard members who are serving in the Texas Legislature, to submit to the Department of Public Safety of the State of Texas (DPS) certain information, including two complete sets of legible and classifiable fingerprints and a sworn statement by the head of the law enforcement agency employing the applicant concerning the applicant's qualifications and physical and mental fitness to carry a handgun. This bill:

- Strikes provisions regarding the submission of fingerprints and the sworn statement by the head of the law enforcement agency.
- Requires an applicant who is a peace officer to submit to DPS:
  - the name and rank of the applicant; and
  - a current copy of the applicant's peace officer license and evidence of employment as a peace officer.
- Requires DPS to adopt rules regarding the information required to be included in an application submitted by a member of the Texas military forces.
**Firearm Discharged Across Property Lines—H.B. 3390 [VETOED]**

*by Representative Larson—Senate Sponsor: Senator Perry*

Current law provides a defense from prosecution for the discharge of a firearm across a property line if the person has a written agreement with the affected property owner. This bill:

Amends current law relating to such an agreement to require that the agreement include the contact information of the person authorized to hunt or engage in recreational shooting.

**Issuance of CHL to Certain Retired Judicial Officers—H.B. 3747**

*by Representative Phillips—Senate Sponsor: Senator Estes*

Section 411.201 (Active and Retired Judicial Officers), Government Code, concerns the issuance of a concealed handgun license to certain judicial officers. This bill:

Expands the definition of judicial officer under this section to include a retired federal judge who is a Texas resident.

Defines "federal judge."

Changes reference to a special judge to a visiting judge.

**Carrying of Concealed Handguns at Institutions of Higher Education—S.B. 11**

*by Senator Birdwell et al.—House Sponsor: Representative Fletcher*

Currently under the Texas Penal Code, it is an offense for a holder of a valid concealed handgun license (CHL) to possess a concealed handgun on the physical premises of a public or private school or educational institution. To be eligible for a CHL, a license holder must be 21 years of age or older (unless in the military), have passed state and federal criminal records checks, completed a firearms proficiency test, and completed Department of Public Safety-mandated training and education. This bill:

Amends the Government Code and the Penal Code to authorize an individual possessing a valid CHL issued in the State of Texas to carry a concealed handgun on a campus or premises associated with a public or private institution of higher education.

Authorizes an institution of higher education, within certain limits, to adopt rules with respect to license holders carrying concealed handguns on the campus of the institution or on identified premises of the institution. Requires the institution of higher education to report to the legislature on the adopted rules.

Authorizes an institution of higher education to adopt rules governing the storage of handguns in dormitories and other residential facilities, and provides for a limitation on liability.
Wrongful Prohibition of Concealed Handguns on Certain Premises—S.B. 273
by Senator Campbell—House Sponsor: Representative Guillen

Section 46.03 (Places Weapons Prohibited), Penal Code, bars persons from carrying firearms into specified locations, and Section 46.035 (Unlawful Carrying of Handgun by License Holder), Penal Code, bars holders of a concealed handgun license (CHL) from bringing a handgun into certain premises. Under Section 30.06 (Trespass by Holder of License to Carry Concealed Handgun), Penal Code, a property owner may bar CHL holders from bringing a concealed handgun on the property by posting a notice meeting certain statutory requirements. Section 30.06 contains an exception for property that is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035. Currently there is no enforcement mechanism if a governmental entity posts a notice excluding the carrying of concealed handguns in violation of Section 30.06. This bill:

Adds Section 411.209 (Wrongful Exclusion of Concealed Handgun License Holder) to the Government Code:

- Prohibits a state agency or a political subdivision of the state from posting notice under Section 30.06 or any sign stating that a CHL holder carrying a handgun is prohibited from entering or remaining on a premises owned or leased by the governmental entity unless a CHL holder is prohibited from carrying a handgun on the premises by Sections 46.03 or 46.035.
- Imposes a civil penalty on a state agency or a political subdivision that violates this section of not less than:
  - $1,000 and not more than $1,500 for the first violation; and
  - $10,000 and not more than $10,500 for the second or a subsequent violation.
- Provides that each day of a continuing violation constitutes a separate violation.
- Authorizes a citizen of this state or a person licensed to carry a concealed handgun to file a complaint with the Texas attorney general that a state agency or political subdivision is in violation of this section if:
  - the citizen or person provides the agency or political subdivision a written notice that describes the violation and specific location of the sign found to be in violation; and
  - the agency or political subdivision does not cure the violation before the end of the third business day after the date of receiving the written notice.
- Requires that a complaint filed under this section include evidence of the violation and a copy of the written notice.
- Requires that a civil penalty collected by the attorney general under this section be deposited to the credit of the compensation to victims of crime fund.
- Requires the attorney general to investigate the complaint to determine whether legal action is warranted before a suit may be brought against a state agency or a political subdivision.
- Requires the attorney general, if legal action is warranted, to give the chief administrative officer of the agency or political subdivision charged with the violation a written notice that:
  - describes the violation and specific location of the sign found to be in violation; and
  - gives the agency or political subdivision 15 days from receipt of the notice to remove the sign and cure the violation, unless the agency or political subdivision was found liable by a court for previously violating this section.
- Provides that if the attorney general determines that legal action is warranted and that the state...
agency or political subdivision has not cured the violation, the attorney general or the appropriate
county or district attorney may sue to collect the civil penalty.

- Authorizes the attorney general to also file a petition for a writ of mandamus or apply for other
appropriate equitable relief.
- Provides that a suit or petition may be filed in a district court in Travis County or in a county in
which the principal office of the state agency or political subdivision is located.
- Provides that the attorney general may recover reasonable expenses incurred in obtaining relief
under this section.
- Waives sovereign immunity to suit to the extent of liability created by this section.

Amends Section 46.035 to make it an offense for a CHL holder to carry a handgun in the room or rooms
where a meeting of a governmental entity is held if the meeting is an open meeting subject to Chapter 551
(Open Meetings), Government Code, and the entity provided notice as required by that chapter.

**Permitting the Possession or Sale of Certain Weapons—S.B. 473**

*by Senator Perry—House Sponsor: Representative Frullo*

The federal National Firearms Act (NFA) of 1934 classifies short-barreled rifles and shotguns, suppressors,
and machine guns as "restricted." However, law-abiding citizens can still obtain these weapons through a
lengthy, thorough process that includes sending to the United States Bureau of Alcohol, Tobacco, Firearms
and Explosives (BATFE) a set of fingerprints and two passport photos for a Federal Bureau of Investigation
background check. Additionally, individuals must pay a $200 federal tax and have their local chief law
enforcement officer sign off on their paperwork.

Under Section 46.05 (Prohibited Weapons), Penal Code, these items are illegal; however, the fact that the
item is registered and processed pursuant to the NFA may be used as a defense to prosecution for
violating state law. Because the current law is confusing, Texans lawfully possessing such weapons are at
risk of arrest and having the firearms confiscated. This bill:

Amends Section 46.05 to exclude a weapon registered in the National Firearms Registration and Transfer
Record maintained by BATFE or classified as a curio or relic by the United States Department of Justice.
Creation of a Commission to Review Convictions—H.B. 48
by Representative McClendon et al.—Senate Sponsor: Senator Ellis et al.

Texas has had more total exonerations (200) and DNA exonerations (57) than any other state in the country. The conviction of the innocent ruins lives, destroys public trust in our justice system, harms public safety as guilty culprits remain free, and denies victims justice. Currently, when an innocent person is wrongfully convicted, Texas has no institutional mechanism to examine exonerations and recommend reforms to continuously improve the reliability of the state’s justice system. It is important to determine how and why the justice system makes such mistakes. This bill:

Adds Article 43.27 (Timothy Cole Exoneration Review Commission) to the Code of Criminal Procedure:
- Sets forth the composition of the 11-member Timothy Cole Exoneration Review Commission (commission).
- Prohibits an active judge from serving on the commission.
- Authorizes certain specified persons to serve as advisory members to the commission, including the director of the Texas Innocence Network at the University of Houston Law Center.
- Sets forth the terms of committee members and the procedure for filling vacancies on the commission.
- Provides that the commission exists under the Texas Judicial Council (TJC), but operates independently of TJC.
- Requires that the Office of Court Administration of the Texas Judicial System:
  - provide administrative assistance and services to the commission;
  - accept, deposit, and disburse money made available to the commission; and
  - provide the commission with adequate computer equipment and support.
- Provides that the commission may meet in a time and in a manner determined by the commission, and requires that the commission meet in Austin at least annually.
- Requires that the commission hold its first meeting on or before October 31, 2015.
- Requires that the commission conduct one public hearing.
- Authorizes advisory members to participate in the public hearing, but provides that they do not count toward a quorum and are not entitled to vote.
- Provides that six members of the commission constitute a quorum, that the commission may act only on the concurrence of six or more members, and that the commission may issue a report under this Act only on the concurrence of seven members.
- Provides that a commission member is entitled to reimbursement for travel expenses.
- Sets forth the qualifications for commission members and the grounds for removal of a member.
- Authorizes the commission to review and examine all cases in Texas in which an innocent defendant was convicted and then, on or after January 1, 2010, was exonerated.
- Sets forth the duties of the commission.
- Requires that the commission:
  - consider potential implementation plans, costs, cost savings, and the impact on the criminal justice system for each potential solution; and
  - review and update the research, reports, and recommendations of the Timothy Cole advisory panel (panel) established by the 81st Legislature, Regular Session, 2013, and include in the commission’s report the degree to which the panel's recommendations were implemented.
- Authorizes the commission to solicit input from innocence projects, bar associations, and other specified entities and agencies.
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- Requires that the commission compile and issue a detailed report of its findings and recommendations. The report must also describe statutory, procedural, and evidentiary reforms that have already been implemented in this state.
- Prohibits the report from including any recommendation regarding the use of the death penalty or related procedures.
- Requires that the official report issued by the commission be made available to the public, on request.
- Provides that the working papers and records of the commission or its members are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.
- Authorizes the commission to request that a state governmental entity or a political subdivision provide information related to the commission.
- Provides that this article expires on December 1, 2016.
- Provides that the commission is dissolved on the earlier of:
  o the date the commission submits its report; or
  o December 1, 2016.

Alternative Means for Paying Past Due Criminal Fines and Costs—H.B. 121
by Representative Fletcher et al.—Senate Sponsor: Senator Whitmire

Capias pro fine warrants are arrest warrants issued for individuals who have defaulted on payment of criminal fines and court costs. Currently, defendants with such outstanding fees and warrants are being arrested and jailed, or in some jurisdictions, taken by the officers to convenience stores for certified checks to pay the fine. When the person is placed under arrest, it contributes to crowded jails, uses up law enforcement time and resources, and inconveniences the offender. This bill:

Authorizes a court adopt a procedure allowing a peace officer in a case in which a capias pro fine has been issued to accept immediate payment by the defendant by credit or debit card for a past due payment on a judgment for a fine, court costs, and fees.

Authorizes the officer, after accepting such immediate payment on behalf of the court, to release the defendant, as appropriate.

Resuming Criminal Case After Defendant is Determined Competent—H.B. 211
by Representative Rose—Senate Sponsor: Senator Rodriguez

Current law does not adequately address the time frame in which criminal proceedings may be resumed after a defendant who was determined to be incompetent to stand trial has subsequently been found competent to stand trial. H.B. 211 seeks to facilitate efficiency within the criminal justice system by remedying this issue. This bill:
Requires the court to enable any objection to the findings of the report to be made in a timely manner, and to provide copies of the report to the attorney representing the defendant and the attorney representing the state.

Requires the court, not later than the next business day following the return of a defendant to the court, to notify the attorney representing the state and the attorney for the defendant regarding the return. Requires the attorney for the defendant, within three business days of the date that notice is received, on a showing of good cause or a later date specified by the court, to meet and confer with the defendant to evaluate whether there is any suggestion that the defendant has not yet regained competency.

Requires the court in a county with a population of less than one million or in a county with a population of four million or more, as soon as practicable following the date of the defendant's return to the court, to provide the notice required to the attorney representing the state and the attorney for the defendant. Requires the attorney for the defendant to meet and confer with the defendant as soon as practicable after the date of receipt of that notice.

Requires the court, following the defendant's return to the court, to make a determination with regard to the defendant's competency to stand trial. Requires the court to make the determination not later than the 20th day after the date on which the court received notification under Article 46B.079 (Notice and Report to Court), Code of Criminal Procedure, or not later than the fifth day after the date of the defendant's return to court, whichever occurs first, regardless of whether a party objects to the report and the issue is set for hearing.

Requires the court in a county with a population of less than one million or in a county with a population of four million or more to make the determination not later than the 20th day after the date on which the court received notification, regardless of whether a party objects to the report and the issue is set for a hearing.

Requires, rather than authorizes, that criminal proceedings in the case against the defendant, if the defendant is found competent to stand trial, on the court's own motion, be resumed not later than the 14th day after the date of the court's determination that the defendant's competency has been restored.

Requires that criminal proceedings in the case against the defendant in a county with a population of less than one million or in a county with a population of four million or more, on the court's own motion, be resumed as soon as practicable after the date of the court's determination under this article that the defendant's competency has been restored. Provides that this article does not require the criminal case to be finally resolved within any specific period.

**Use of Opioid Antagonists for Treatment of Suspected Overdose—H.B. 225 [VETOED]**

by Representative Guillen et al.—Senate Sponsor: Senators Watson and West

Drug overdoses pose a serious threat to Texans. Death from a drug overdose usually occurs over a period of hours, allowing time for bystander intervention. However, in many cases bystanders may also be illegally using controlled substances and are reluctant to seek help because of fear of arrest.

Opioid antagonists are an effective, often lifesaving, treatment for opioid overdose, inhibiting or blocking the effects of opioids. Prompt administration of opioid antagonists can save lives. This bill:
Provides a defense to prosecution for certain specified controlled substances or dangerous drugs if the defendant:

- was the first person to request emergency medical assistance in response to the possible overdose of another person, remained on the scene until the medical assistance arrived, and cooperated with medical assistance and law enforcement personnel; or
- was the victim of a possible overdose for which emergency medical assistance was requested.

Provides that this defense is not available if, at the time of the request for emergency medical assistance, a peace officer was in the process of arresting the actor or executing a search warrant describing the actor.

Authorizes a pharmacist or a person permitted by law to prescribe an opioid antagonist to prescribe an opioid antagonist to a person at risk of experiencing an opioid-related drug overdose or to a family member or other person in a position to assist such a person.

Limits civil and criminal liability of a pharmacist or prescriber who, acting in good faith with reasonable care, prescribes or does not prescribe an opioid antagonist.

Authorizes certain persons or organizations to possess, store, or distribute an opioid antagonist.

Limits the criminal and civil liability of a person who, acting in good faith and with reasonable care, administers or does not administer an opioid antagonist to another individual whom the person believes is suffering an opioid-related drug overdose.

Authorizes the Health and Human Services Commission to issue grants for:

- drug overdose prevention;
- recognition and response education for individuals and emergency services personnel; and
- opioid antagonist prescription or distribution projects.

### Study on Pay-For-Performance Contracts for Criminal Justice Programs—H.B. 307

_by Representative James White—Senate Sponsor: Senator Burton_

Pay-for-performance programs, in which nongovernmental organizations finance and implement new service delivery models on behalf of governments under a pay-for-success contract model, could prove beneficial for the provision of certain criminal justice programs and services. Under this model, privately financed interventions that successfully improve social outcomes and save public funds would merit payments from the government, while unsuccessful outcomes would not merit such payments. This bill:

Requires the Texas Department of Criminal Justice (TDCJ) to conduct a study regarding the feasibility and potential costs and benefits of implementing a pay-for-performance contract program under which TDCJ would:

- contract for the operation of criminal justice programs or the provision of criminal justice services; and
- make contract payments only if specified performance requirements for and outcomes from the programs and services are achieved and the return on investment to the state is positive.
Authorizes TDCJ to request assistance and information from any state agency as necessary to conduct the study.

Requires TDCJ, not later than November 1, 2016, to submit a report on the results of the study to the governor, the lieutenant governor, and the presiding officers of the standing committees of the senate and house of representatives having jurisdiction over criminal justice programs and services.

Requires TDCJ, if it determines a pay-for-performance program would be cost-effective and feasible, to include in the report:

- recommendations regarding the manner in which TDCJ could effectively operate the program and the types of criminal justice programs and services that would be selected for the program; and
- identify any changes in law necessary for implementation of the program.

Provides that this Act expires January 1, 2017.

**Search Warrant for Body Cavity Search—H.B. 324**

by Representative Dutton et al.—Senate Sponsor: Senator Burton

The Fourth Amendment to the United States Constitution establishes the right to be free from unreasonable searches and seizures. A law enforcement officer is generally prohibited from conducting a search without a search warrant, with certain exceptions. Recent incidents in Texas in which law enforcement officers, pursuant to those exceptions, conducted body cavity searches of individuals during traffic stops without a warrant have prompted concerns regarding the lack of policies among law enforcement agencies prohibiting such warrantless searches. H.B. 324 seeks to align certain law enforcement policy with the constitutionally given protection against unreasonable searches. This bill:

Defines "body cavity search."

Prohibits a peace officer, notwithstanding any other law, to conduct a body cavity search of a person during a traffic stop unless the officer first obtains a search warrant pursuant to Chapter 18 (Search Warrants), Code of Criminal Procedure, authorizing the body cavity search.

**Information Provided Electronically in Support of Search Warrant—H.B. 326**

by Representative Wu et al.—Senate Sponsor: Senator Hall

Currently, a law enforcement officer presents certain information to support the issuance of a search warrant to a magistrate by hand delivery or by sending a fax of the information to the magistrate, but this traditional practice presents logistical difficulties for large counties and jurisdictions. Federal rules allow an officer to provide information in person, by fax, by e-mail, or by phone, and Texas would benefit from modernizing its warrant process to reflect advances in technology. This bill:

Authorizes a magistrate to consider information communicated by telephone or other reliable electronic means in determining whether to issue a search warrant. Authorizes the magistrate to examine an
applicant for a search warrant and any person on whose testimony the application is based. Requires the applicant or other person to be placed under oath before the examination.

Requires the magistrate to acknowledge the attestation in writing on the affidavit if an applicant for a search warrant attests to the contents of an affidavit submitted by reliable electronic means. Requires the magistrate, if the magistrate considers additional testimony or exhibits, to: ensure that the testimony is recorded verbatim by an electronic recording device, by a court reporter, or in writing; ensure that any recording or reporter's notes are transcribed and that the transcription is certified as accurate and is preserved; sign, certify the accuracy of, and preserve any other written record; and ensure that the exhibits are preserved.

Requires an applicant for a search warrant who submits information to prepare a proposed duplicate original of the warrant and to read or otherwise transmit its contents verbatim to the magistrate. Requires a magistrate to enter into an original search warrant the contents of a proposed duplicate original that are read to the magistrate. Provides that the transmission received by the magistrate may serve as the original search warrant if the applicant transmits the contents by reliable electronic means.

Authorizes the magistrate to modify a submitted search warrant. Requires the magistrate, if the magistrate modifies the warrant, to transmit the modified version to the applicant by reliable electronic means or file the modified original and direct the applicant to modify the proposed duplicate original accordingly.

Requires a magistrate who issues a search warrant for which information is provided by telephone or reliable electronic means to: sign the original documents; enter the date and time of issuance on the warrant; and transmit the warrant by reliable electronic means to the applicant or direct the applicant to sign the judge's name and enter the date and time on the duplicate original.

Provides that evidence obtained pursuant to a search warrant for which information was provided is not subject to suppression on the ground that issuing the warrant was unreasonable under the circumstances, absent a finding of bad faith.

Use of Reserve Investigator by Prosecuting Attorney—H.B. 480
by Representatives Bell and Greg Bonnen—Senate Sponsor: Senator Kolkhorst

While other governmental entities are authorized to commission reserve or unpaid peace officers, there is no statutory authority for a prosecuting attorney to appoint reserve investigators. Certain counties are unable to retain such investigators because they are unable to pay a competitive wage. H.B. 480 recognizes the need for reserve investigators and proposes to provide this additional investigative support to prosecutors. This bill:

Authorizes a prosecuting attorney to employ the assistant prosecuting attorneys, investigators, secretaries, and other office personnel that in the prosecuting attorney's judgment are required for the proper and efficient operation and administration of the office of the prosecuting attorney. Authorizes the commissioners court to authorize a prosecuting attorney to appoint reserve investigators. Authorizes the commissioners court to limit the number of reserve investigators that a prosecuting attorney may appoint. Authorizes a reserve investigator to accept other employment or compensation that does not impair the
reserve investigator's independence in the performance of the reserve investigator's duties for the prosecuting attorney.

**Use of Expert Witnesses in Criminal Case—H.B. 510**  
by Representative Moody—Senate Sponsor: Senator Ellis

The 83rd Legislature enacted the Michael Morton Act (Act), which comprehensively overhauled the discovery process for Texas criminal cases to ensure more open and transparent discovery in all criminal cases. However, the Act did not change discovery regarding expert witnesses. This bill:

Requires the party receiving a discovery request to disclose to the requesting party the name and address of each person the disclosing party may use as a witness at trial to present evidence relating to expert testimony.

Requires that the request for discovery must be made not later than the 30th day before the date that jury selection in the applicable trial is scheduled to begin or, in a trial without a jury, the presentation of evidence is scheduled to begin.

Changes the manner in which the disclosure must be made from a manner specified by the court to in writing in hard copy form or by electronic means.

**Offenses Committed Against Person in Custody—H.B. 511**  
by Representatives Moody and Alonzo—Senate Sponsor: Senator Rodríguez

Section 39.04 (Violations of the Civil Rights of Person in Custody; Improper Sexual Activity With Person in Custody), Penal Code, makes it a criminal offense for correctional facility employees to commit civil rights violations against, or engage in sexual conduct with, people confined in their facilities. The statute currently applies to jails, prisons, juvenile facilities, and correctional facilities, including those operated on contract, but not to facilities that detain individuals on the grounds of immigration. This bill:

Amends Section 39.04 to expand the definition of "correctional facility" to include any facility designated for the detention of persons suspected of violating the federal Immigration and Nationality Act.

Modifies the definition of "correctional facility" under Article 18.20 (Detection, Interception, and Use of Wire, Oral, or Electronic Communications), Code of Criminal Procedure, which concerns the use of a device to detect or intercept a wireless communication device in a correctional facility, by replacing the reference to the definition under Section 39.04 with references to specific definitions in the Penal Code and Family Code.

**Waiver of Community Supervision Revocation Hearing—H.B. 518**  
by Representative Moody—Senate Sponsor: Senator Rodríguez

Under current law, an incarcerated probationer who wishes to waive a hearing on a motion to revoke or adjudicate has to be brought before a court of record and sign the waiver in person. This requirement
results in transportation and administrative costs. Those costs are particularly high when a defendant on probation absconds and is convicted and incarcerated in a different jurisdiction. In such cases, the probationer has no defense to the revocation of his or her probation, so waiving the hearing is a sensible, efficient step. It makes little sense to require transporting the probationer back to the original jurisdiction in order to do so. This bill:

Authorizes a judge to revoke the community supervision of a defendant who is imprisoned in a penal institution without a hearing if the defendant in writing before a notary public waives the right to a hearing.

Visitation Periods for County Jail Prisoners—H.B. 549
by Representative Johnson et al.—Senate Sponsor: Senators Whitmire and West

The number of county jails using video visitation instead of in-person visitation is increasing and the cost of video visitation can be a significant obstacle for low-income families. Eliminating in-person visitation has led to an increase of inmate-on-staff assaults, as evidenced in a certain county jail after in-person visitation was eliminated in that facility. H.B. 549 seeks to encourage inmate access to in-person visitations. This bill:

Requires the Commission on Jail Standards (CJS) to adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration.

Provides that a county jail that as of September 1, 2015, has incurred significant design, engineering, or construction costs to provide prisoner visitation that does not comply with a rule or procedure adopted under this Act, or does not have the physical plant capability to provide the in-person prisoner visitation required by a rule or procedure adopted under this Act, is not required to comply with any CJS rule or procedure adopted under this Act.

Prohibits a CJS rule or procedure adopted under this Act from restricting the authority of a county jail under CJS's rules in effect on September 1, 2015, to limit prisoner visitation for disciplinary reasons.

Canine Encounter Training for Peace Officers—H.B. 593
by Representative Collier et al.—Senate Sponsor: Senator Whitmire

Not all Texas police officers receive adequate training to prepare for a canine encounter, even though many officers will likely encounter a canine at some point in their career. H.B. 593 seeks to equip a police officer with the knowledge and skills necessary to properly handle canine encounters. This bill:

Requires the Texas Commission on Law Enforcement (TCOLE), as part of the minimum curriculum requirements, to require an officer licensed by TCOLE on or after January 1, 2016, to complete a canine encounter training program established by TCOLE. Requires an officer to complete the program not later than the second anniversary of the date the officer is licensed unless the officer completes the program as part of the officer's basic training course.

Requires TCOLE to establish a statewide comprehensive education and training program on canine encounters and canine behavior. Requires that the training program consist of at least four hours of
classroom instruction and practical training, developed and approved by TCOLE, that addresses certain
criteria. Requires TCOLE, at least once every four years, to review the content of the training program and
update the program as necessary. Provides certain exceptions to the requirements of this Act.

Requires an officer, as a requirement for an intermediate or advanced proficiency certificate issued by
TCOLE on or after January 1, 2016, to complete the canine encounter training program established by
TCOLE.

Provides that an officer employed by a county with a population of less than 125,000 is not required to
comply before January 1, 2017.

Rights of a Guardian of a Person in the Criminal Justice System—H.B. 634
by Representative Metcalf—Senate Sponsor: Senator Creighton

There are reports from Montgomery County that court-appointed guardians have been denied access to
their wards in the criminal justice system. These situations occur when the ward either fails to put the
guardian on a visitor list or purposely excludes the guardian from the list. This bill:

Authorizes a guardian who provides a court with letters of guardianship for a defendant to:
• provide information relevant to the determination of indigency; and
• request that counsel be appointed.

Requires that a uniform visitation policy of a correctional facility must:
• allow visitation by a guardian of an inmate to the same extent as the inmate's next of kin, including
  placing the guardian on the inmate's approved visitors list at the guardian's request and providing
  the guardian access to the inmate during a facility's standard visitation hours if the inmate is
  otherwise eligible to receive visitors; and
• require the guardian to provide the warden with letters of guardianship before being allowed to visit
  the inmate.

Requires the Commission on Jail Standards (CJS) to adopt similar rules and procedures.

Requires the Texas Department of Criminal Justice to revise visitation policies and CJS to establish rules
and procedures in compliance with this Act not later than December 1, 2015.

Payments to Beneficiaries of Wrongfully Imprisoned Persons—H.B. 638
by Representatives Anchia and Simmons—Senate Sponsor: Senators Ellis and West

In 2009, the Texas Legislature passed the Tim Cole Act (Act), which entitles a wrongfully convicted person
to a lump sum payment equal to $80,000 for each year incarcerated and a monthly annuity payment that is
guaranteed for his or her lifetime. Some exonerees have stated that when they die, they want the option of
passing on the annuity to their spouses and children to ensure that they are taken care of. This bill:
Grants a person entitled to compensation the option to elect to receive reduced alternative annuity payments.

Provides that alternative annuity payments are payable throughout the life of the claimant and are actuarially reduced from the standard annuity payments to their actuarial equivalent depending on the option selected by the claimant.

Sets forth four options a claimant may select for alternative annuity payments to the claimant's spouse or designated beneficiary.

Sets forth the deadline by which a claimant must make such election by filing a form with the Texas comptroller of public accounts (comptroller).

Provides that a claimant, who elects to receive alternative annuity payments that are payable to the claimant and the claimant's spouse and who survives the spouse, is entitled to an increase in the amount of the claimant's monthly annuity payments to equal the monthly payments the claimant would have received had the claimant not elected to receive the alternative annuity payments.

Authorizes a claimant to designate a beneficiary or beneficiaries to receive the remainder of the alternative annuity payments.

Sets forth the adjustment of payments if certain beneficiaries die before the remainder of the annuity payments are paid.

Provides that a claimant may not select more than four additional beneficiaries and must determine the order in which the additional beneficiaries are to succeed the primary beneficiary.

Requires a designated beneficiary to be a dependent of the claimant.

Requires the comptroller, not later than December 1, 2015, to develop and make available the form described by this Act.

Alcohol and Drug Awareness Programs for Minors—H.B. 642
by Representative Canales—Senate Sponsor: Senator Hinojosa

Alcoholic awareness courses are designed, in part, to help a child who engages in conduct constituting an alcohol-related offense better understand the dangers of alcohol abuse. Interested parties contend that such a requirement to attend these and related courses should apply to a child who engages in conduct constituting a drug-related offense to combat drug abuse and drug-associated criminal activity. This bill:

Authorizes a judge to require certain defendants, as a condition of community supervision, to attend and complete an alcohol awareness program approved under Section 106.115, Alcoholic Beverage Code, or drug education program approved by the Department of State Health Services (DSHS).

Requires a judge to order the defendant to pay the cost of attending the program unless the defendant is found to be indigent or unable to pay the cost.
Authorizes the judge, under certain circumstances, to require the defendant's parent or guardian to pay the cost of attending the program.

Requires DSHS to administer the program and provide training to a person who provides the program.

Procedure for Surety to Discharge Bail—H.B. 643
by Representative Harless—Senate Sponsor: Senator Whitmire

Under current law, even though an information or indictment in a court case is sometimes never pursued, a surety's liability remains committed with the prosecutor or defense attorney authorized to file a motion to discharge the case and bond. This bill:

Authorizes a surety to file a motion for the purpose of discharging the defendant's bail only if the indictment or information is not timely presented against the defendant.

Contents of a Search Warrant—H.B. 644
by Representatives Canales and Minjarez—Senate Sponsor: Senator Hinojosa

Current law requires a search warrant to include a magistrate's signature but does not require the magistrate's name to be printed on the warrant. There have been reports of local law enforcement agencies illegally seizing money, drugs, jewelry, and other valuable items by signing illegible signatures on search warrants. H.B. 644 seeks to prevent such abuses. This bill:

Provides that a search warrant issued under this chapter shall be sufficient if it contains certain information and include the magistrate's name appearing in clearly legible handwriting or in typewritten form with the magistrate's signature.

Provides that the offense of tampering with a governmental record is a felony of the third degree if it is shown on the trial of the offense that the governmental record was a search warrant issued by a magistrate.

Violation of TDCJ Release Conditions—H.B. 710
by Representative Sylvester Turner et al.—Senate Sponsor: Senator Rodriguez et al.

Although current law authorizes the pardons and paroles division of the Texas Department of Criminal Justice (TDCJ) to issue a summons for offenders who violate an administrative or technical rule of parole, the same mechanism and discretion is not afforded to the division for offenders who commit a new offense, such as a misdemeanor that does not involve family violence or harm to a child, and who have steady employment and a stable living situation. The current process, which typically results in such offenders being in jail without access to bond or bail, creates unnecessary inefficiencies and increases the already high costs of incarceration. H.B. 710 seeks to provide an efficient process for requiring certain persons charged with a violation of a condition of release from TDCJ on parole or to mandatory supervision to appear at a hearing. This bill:
Provides that, instead of the issuance of a warrant, the pardons and paroles division: may issue to the person a summons requiring the person to appear for a hearing if the person is charged only with committing a new offense that is alleged to have been committed after the first anniversary of the date the person was released on parole or to mandatory supervision if the new offense is a Class C misdemeanor under the Penal Code, other than an offense committed against a child or an offense involving family violence, the person has maintained steady employment for at least one year, the person has maintained a stable residence for at least one year, and the person has not previously been charged with an offense after the person was released on parole or to mandatory supervision; and is required to issue to the person a summons requiring the person to appear for a hearing if the person is charged only with committing an administrative violation of release that is alleged to have been committed after the first, rather than the third, anniversary of the date the person was released on parole or to mandatory supervision.

Provides that, after the Texas Board of Pardons and Paroles or a parole panel makes a final determination that a releasee has violated a condition of release, a warrant may be issued requiring the releasee to be held in the county jail pending transfer to an intermediate sanction facility, or the return of the releasee to the institution from which the releasee was released. Deletes existing text providing that, immediately on conclusion of a hearing in which the designated agent determines that a releasee has violated a condition of release, a warrant may be issued requiring the releasee to be held in the county jail pending the action of a parole panel on any recommendation made by the designated agent, and, if subsequently ordered by the parole panel, the return of the releasee to the institution from which the releasee was released.

**Reactivation of Peace Officer License—H.B. 872**

by Representatives Raymond and Guillen—Senate Sponsor: Senator Whitmire

Current law creates a barrier for former experienced officers to re-enter the law enforcement field after a period of alternative employment. Reducing these requirements may encourage these individuals to re-enter the field and provide a new source of qualified officers to keep Texas communities secure. This bill:

Requires the Texas Commission on Law Enforcement to reactivate a peace officer's license after a break in employment if the former license holder:

- completed at least 10 years of full-time service as a peace officer in good standing before the break in employment;
- meets current licensing standards;
- successfully completes certain supplemental education and other training; and
- files an application and pays any required fees.

**County Bail Bond Boards—H.B. 885**

by Representatives Paddie and Hughes—Senate Sponsor: Senator Eltife

Current law requires a bail bond board (board) of a county with less than 50,000 residents to meet at least four times a year during the months of January, April, July, and October. This bill:

Changes the population bracket to a county with a population of less than 150,000.
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Authorizes such boards to meet at the call of the presiding officer.

Provides that notwithstanding the expiration date of a license issued Chapter 1704 (Regulation of Bail Bond Sureties), Occupations Code, if a board tables the application for renewal of a holder of a bail bond surety license and does not take action to approve or deny the application, the applicant's current license continues in effect until the board's next meeting.

**Breach of Computer Security—H.B. 896**

*by Representative Hernandez—Senate Sponsor: Senator Huffman*

Section 33.02 (Breach of Computer Security), Penal Code, prohibits a person from accessing a computer system or network without the owner's effective consent with the intent to harm or defraud another or to alter, damage, or delete another's property. This bill:

Makes it an offense for a person to, with the intent to defraud or harm another or alter, damage, or delete property, knowingly access a computer, computer network, or computer system (computer) that is owned by the government or a business or other commercial entity engaged in a business activity:

- in violation of a clear and conspicuous prohibition by the owner of the computer, or a contractual agreement to which the person has expressly agreed to; and
- with the intent to obtain or use a file, data, or proprietary information stored in the computer to defraud or harm another or alter, damage, or delete property.

Provides that it is a defense to prosecution that the actor's conduct consisted solely of action taken pursuant to a contract entered into with the owner of the computer for the purpose of assessing the security of the computer or providing other security-related services.

**Transfer of Certain Inmates to TDCJ Following Sentencing—H.B. 904**

*by Representative Smith et al.—Senate Sponsor: Senators Huffman and Bettencourt*

Under current law, the Texas Department of Criminal Justice (TDCJ) has no obligation to accept an inmate who appeals a conviction unless the sentence exceeds 10 years. Inmates are ineligible for bond pending appeal if they have been convicted of certain aggravated offenses or sentenced to exactly 10 years. As many of these inmates are ineligible for an appeal bond, they remain in county jail at a substantial cost. This bill:

Strikes the statutory provision requiring a term of more than 10 years.

Amends current law to require TDCJ to also accept inmates who are ineligible for release on bail pending appeal.
DNA Database System—H.B. 941  
*by Representatives Hernandez and Faircloth—Senate Sponsor: Senators Perry and Zaffirini*

Section 411.1471 (DNA Records of Persons Charged with or Convicted of Certain Felonies), Government Code, requires persons charged with or convicted of certain offenses to provide a DNA sample for the creation of a DNA record. Certain individuals convicted under Section 25.04 (Enticing a Child), Penal Code, are not required to submit a DNA sample to be entered into the FBI's CODIS (Combined DNA Index System) database. Interested parties contend that including this sexual offense among those convictions that mandate an individual to submit a DNA sample could help vindicate innocent suspects and link actual perpetrators to unsolved crimes. This bill:

- Requires that the $50 cost of court paid by a defendant convicted of certain felony or misdemeanor offenses be credited to the funds of the Department of Public Safety of the State of Texas (DPS) to help defray the cost of collecting or analyzing DNA samples provided by defendants who are required to pay a court cost under Article 102.020 (Costs Related to DNA Testing), Code of Criminal Procedure.

- Amends Article 102.020, Code of Criminal Procedure, to provide that the $50 court cost is imposed for DNA testing for certain misdemeanors and felonies, rather than the offense of public lewdness or indecent exposure.

- Authorizes the public safety director, if a DNA sample was collected solely for the purpose of creating a DNA record, to destroy the sample after any test results associated with the sample are entered into the DNA database and the CODIS database.

- Amends Section 411.1471 (DNA Records of Persons Charged With, or Convicted of Certain Felonies), Government Code:
  - changes the caption to read "DNA Records of Persons Arrested for, Charged With, or Convicted of Certain Offenses";
  - adds to the offenses for which a defendant is required to submit a DNA sample those offenses under Title 5 (Offenses Against the Person), Penal Code, other than certain specified misdemeanor offenses, and under Section 25.04 (Enticing a Child), 43.03 (Promotion of Prostitution), or 43.24, (Sale, Distribution, or Display of Harmful Material to Minor ), Penal Code; and
  - provides that a defendant who provides a DNA sample under this section is not required to provide a DNA sample under other statutory provisions, unless the attorney representing the state establishes to the satisfaction of the public safety director that the interests of justice or public safety require that the defendant provide additional samples.

Notice to Court Regarding Certain Defendants—H.B. 1015 [VETOED]  
*by Representative Canales—Senate Sponsor: Senator Hinojosa*

Currently, sentencing judges have the discretion to pull a defendant out of a state jail facility and place him or her in community supervision after the defendant has served 75 days in jail. But there is currently no mechanism in place to notify judges when a defendant has served 75 days. This bill:
Requires the Texas Department of Criminal Justice, not later than the 60th day after the date a defendant is received into the custody of a state jail felony facility, to notify the sentencing court of the date on which the defendant will have served 75 days in the facility.

Requires the notice to be provided by e-mail or other electronic communication.

**Reporting Injuries or Deaths Caused or Suffered by Peace Officers—H.B. 1036**

*by Representative Johnson—Senate Sponsor: Senators Whitmire and West*

Despite the widely publicized nature of police shootings, interested parties contend that there is no way to know how many shootings occur each year because current law does not require police shootings to be reported. These parties believe that this lack of information prevents policymakers and researchers from adequately studying this issue. This bill:

Adds Article 2.139 (Reports Required for Officer-Involved Injuries or Deaths) to the Code of Criminal Procedure:
- Defines "officer-involved injury or death" as an incident during which a peace officer discharges a firearm causing injury or death to another.
- Requires the office of the attorney general (OAG) by rule to create a written and electronic form for the reporting by law enforcement agencies of an officer-involved injury or death. Sets forth what the form must include.
- Requires the law enforcement agency employing an officer involved in an officer-involved injury or death to submit a written or electronic report, using the form created under this Act, to the OAG not later than the 30th day after the date of incident.
- Requires a law enforcement agency that maintains an Internet website to post a copy of the report on the website.
- Requires OAG, not later than the fifth day after the date of receipt of a report, to post a copy of the report on the OAG Internet website.
- Requires OAG to submit a report regarding all officer-involved injuries or deaths that occurred during the preceding year to the governor and the standing legislative committees with primary jurisdiction over criminal justice matters not later than February 1 of each year.
- Sets forth what this report must include.

Adds Article 2.1395 (Reports Required for Certain Injuries or Deaths of Peace Officers) to the Code of Criminal Procedure:
- Requires OAG to create a written and electronic form for the reporting by law enforcement agencies of incidents in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer. Sets forth what the form must include.
- Requires the law enforcement agency employing the injured or deceased officer to submit a written or electronic report, using the form created under this Act, to the OAG not later than the 30th day after the date of incident.
- Requires a law enforcement agency that maintains an Internet website to post a copy of the report on the website.
- Requires OAG to submit a report regarding officer injuries or deaths that occurred during the
preceding year to the governor and the standing legislative committees with primary jurisdiction over criminal justice matters not later than February 1 of each year.

- Sets forth what this report must include.

Requires OAG to create the reporting forms not later than October 1, 2015.

**Mental Health Assessment of TDCJ Inmates—H.B. 1083**
by Representative Márquez et al.—Senate Sponsor: Senators Whitmire and Zaffirini

Inmates of the Texas Department of Criminal Justice (TDCJ) may be housed in solitary confinement, known as administrative segregation, including individuals who may have serious mental illnesses. Most mental health experts agree that solitary confinement can worsen the condition of individuals with mental illnesses. Concerned parties assert that inadequate monitoring and cursory checks of an inmate in solitary confinement do not allow for serious mental health issues to be identified. This bill:

Requires TDCJ, before it may confine an inmate in administrative segregation, to have an appropriate medical or mental health care professional perform a mental health assessment of the inmate.

Prohibits TDCJ from confining an inmate in administrative segregation if the assessment indicates that such confinement is not appropriate for the inmate’s medical or mental health.

**Pregnant Prisoners in County Jails—H.B. 1140**
by Representative Israel et al.—Senate Sponsor: Senator Whitmire

Current law requires the Texas Commission on Jail Standards (TCJS) to establish health care standards for pregnant inmates. However, there continue to be reports of alleged mistreatment within county jails. This bill:

Requires a county jail, in the manner prescribed by TCJS, to notify TCJS of any change in the jail’s policies and procedures related to the provision of health care to pregnant prisoners and the placement of a pregnant prisoner in solitary confinement or administrative segregation.

Requires each sheriff, not later than September 1, 2016, to report to TCJS regarding the implementation of policies and procedures in the county jails in the sheriff's county to provide adequate care to pregnant prisoners confined in the jail.

Requires that the report be on a form prescribed by TCJS and sets forth what the report must include.

Requires TCJS, not later than December 1, 2016, to compile, analyze, and summarize the information contained in the reports and to provide a copy of the summary to the governor, the lieutenant governor, the speaker of the house of representatives; and each standing committee of the senate and house of representatives having primary jurisdiction over matters relating to corrections.

Requires TCJS, not later than December 1, 2015, to adopt rules to implement this Act.
Abusable Synthetic Drugs—H.B. 1212

by Representative Price et al.—Senate Sponsor: Senators Schwertner and Bettencourt

In recent years, there has been a significant increase in the production, evolution, and sale of synthetic drugs. Informed observers explain that the term "synthetic drugs" is used to describe a wide range of ever-changing man-made chemical products created specifically to mimic the effects of illicit drugs. Recent reports show that, although the products are often marketed as harmless fragrances and legally sold in convenience stores and online under the guise of incense or potpourri, the drugs can be as dangerous as many illicit drugs with the same potential to cause adverse life-altering or lethal consequences. Additional concern surrounds the fact that these drugs are generally not detectable on drug tests.

Several states have taken steps to ban the substances but have had little success with those bans because the manufacturers change the compounds constantly. Since these drugs evolve so rapidly, there is a need for Texas to have the ability to designate and regulate abusible synthetic substances in a timely manner. This bill:

Authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to designate a consumer commodity as an abusable synthetic substance if the executive commissioner determines that the consumer commodity is likely an abusable synthetic substance and the importation, manufacture, distribution, or retail sale of the commodity poses a threat to public health.

Authorizes the executive commissioner of HHSC, in determining whether a consumer commodity is an abusable synthetic, to consider: whether the commodity is sold at a higher price than similar commodities are ordinarily sold; any evidence of clandestine importation, manufacture, distribution, or diversion from legitimate channels; any evidence suggesting the product is intended for human consumption, regardless of any consumption prohibitions or warnings on the packaging or commodity; or certain factors suggesting the commodity is an abusable synthetic substance intended for illicit drug use.

Authorizes the executive commissioner of HHSC to emergency schedule a substance as a controlled substance if the executive commissioner determines the action is necessary to avoid an imminent hazard to the public safety. Requires the executive commissioner, in determining whether a substance poses an imminent hazard to the public safety, to consider certain factors.

Provides that the executive commissioner may not emergency schedule a substance as a controlled substance if: the substance is already scheduled; an exemption or approval is in effect for the substance under Section 505, Federal Food, Drug, and Cosmetic Act; or the substance is an over-the-counter drug that qualifies for recognition as safe and effective under conditions established by federal regulations of the United States Food and Drug Administration (FDA) governing over-the-counter drugs.

Requires the executive commissioner of HHSC, before emergency scheduling a substance as a controlled substance, to consult with the Department of Public Safety of the State of Texas (DPS) regarding the chemical structure of compounds contained in that substance, and provides that the executive commissioner may emergency schedule the substance only in accordance with any recommendations provided by DPS.

Provides that an emergency scheduling under the bill expires on September 1 of each odd-numbered year for any scheduling that occurs before January 1 of that year.
Requires the executive commissioner of HHSC to post notice about each emergency scheduling under the bill on the Internet website of the Department of State Health Services (DSHS).

Confidentiality of Identifying Information of Stalking Victims—H.B. 1293
by Representative Alvarado et al.—Senate Sponsor: Senator Huffman

Under current law, a victim of certain sexual, family violence, or human trafficking offenses may protect his or her identity by obtaining a pseudonym for use in certain public records. However, this statute does not apply to a victim of stalking, even though a stalking victim's safety may be put in jeopardy if the victim's identity is made public. This bill:

Adds Chapter 57A (Confidentiality of Identifying Information of Victims of Stalking) to the Code of Criminal Procedure:

- Requires that the office of the attorney general (OAG) develop and distribute to law enforcement agencies a pseudonym form (form) to record the name, address, telephone number, and pseudonym of a victim of a stalking offense.
- Authorizes a victim to choose a pseudonym to be used instead of the victim's name in all public files and records concerning the offense.
- Requires a victim who elects to use a pseudonym to complete and return the form to the law enforcement agency investigating the offense.
- Provides that a victim who completes and returns a form may not be required to disclose the victim's name, address, and telephone number in connection with the investigation or prosecution of the offense.
- Provides that a completed and returned form is confidential and may not be disclosed to any person other than the victim, a defendant in the case, or the defendant's attorney, except on an order of a court of competent jurisdiction.
- Requires the law enforcement agency receiving the form to:
  - substitute the pseudonym for the victim's name on all reports, files, and records in the agency's possession;
  - notify the attorney for the state that the victim has elected to be designated by the pseudonym;
  - provide the victim with a copy of the completed form; and
  - maintain the form in a manner that protects the confidentiality of the information.
- Requires an attorney for the state to ensure that the victim is designated by the pseudonym in all legal proceedings concerning the offense.
- Authorizes a court of competent jurisdiction to order the disclosure of a victim's name, address, and telephone number only if the court finds that:
  - the information is essential in the trial of the defendant for the offense;
  - the identity of the victim is in issue; or
  - the disclosure is in the best interest of the victim.
- Prohibits a public servant or other person who has access to the name, address, telephone number, or other identifying information of a victim younger than 17 years of age from disclosing such information to any person who is not assisting in the investigation, prosecution, or defense of the case, except as required or permitted by other law or by court order.
- Provides that such prohibition does not apply to the release or disclosure of a victim's identifying information by the victim or the victim's parent, conservator, or guardian, unless the victim's parent,
conservator, or guardian allegedly committed the offense.

- Provides that it is a Class C misdemeanor for:
  - a public servant to knowingly disclose the name, address, or telephone number of a victim 17 years of age or older who has chosen a pseudonym to any person who is not assisting in the investigation or prosecution of the offense or to any person, other than the defendant, the defendant's attorney, or the person specified in the order of a court of competent jurisdiction; or
  - a public servant or other person, unless the disclosure is required or permitted by other law, to knowingly disclose the name, address, or telephone number of the victim younger than 17 years of age to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order of a court of competent jurisdiction.

- Provides that it is an affirmative defense to prosecution that the actor is the victim or the victim's parent, conservator, or guardian, unless the victim's parent, conservator, or guardian allegedly committed the offense.

- Provides that this chapter does not affect the responsibility, power, or duty to provide documentation of stalking under Section 92.0161 (Right to Vacate and Avoid Liability Following Certain Sex Offenses or Stalking), Property Code.

Amends Section 92.0161, Property Code, to require a tenant, if the tenant provides the landlord or the landlord's agent with a copy of a report or record that identifies the victim by means of a pseudonym, to provide a copy of the completed and returned pseudonym form.

Training Peace Officers and First Responders on Persons Affected by Trauma—H.B. 1338

by Representative Naishtat—Senate Sponsor: Senator Menéndez

A person with an acquired brain injury or a traumatic brain injury can experience symptoms ranging from repeated vomiting or nausea, dilation of one or both pupils of the eyes, loss of coordination, profound confusion, agitation, combativeness, slurred speech, or other unusual behavior. Interested parties contend that misunderstanding the root cause of these symptoms can create dangerous situations for such a person seeking to re-integrate into a community after combat, hospitalization, or treatment. This bill:

Requires the Texas Commission on Law Enforcement (TCOLE), in collaboration with the office of acquired brain injury of the Health and Human Services Commission and the Texas Traumatic Brain Injury Advisory Council, to establish and maintain a training program for peace officers and first responders that provides information on:

- the effects of an acquired brain injury and of a traumatic brain injury; and
- techniques to interact with persons who have such injuries.

Requires TCOLE, in collaboration with the Texas Veterans Commission, to establish and maintain a training program for peace officers that provides information on veterans with combat-related trauma, post-traumatic stress, post-traumatic stress disorder, or a traumatic brain injury.

Provides that an officer may not complete the training program regarding veterans by taking an online course.
Prosecution and Punishment for Prostitution—H.B. 1363 [VETOED]
by Representative Johnson et al.—Senate Sponsor: Senator Whitmire et al.

Under current law, the penalty for a prostitution conviction can range from a Class B misdemeanor to a state jail felony depending on the number of previous convictions for the offense. These penalties have not been effective in reducing prostitution recidivism and may be criminalizing individuals who have been coerced into engaging in prostitution. H.B. 1363 seeks to reduce prostitution re-offenses and prevent the continuous trafficking of persons by diverting individuals charged with prostitution into existing rehabilitation programs. This bill:

Redefines "first offender prostitution prevention program" to include commercial sexual exploitation and trafficking of persons. Defines "prostitution prevention program."

Requires such programs to provide each participant with information, counseling, and services relating to commercial sexual exploitation, trafficking of persons, sex addiction, sexually transmitted diseases, mental health, and substance abuse.

Authorizes a court, at any time before trial commences for an offense under Section 43.02 (Prostitution), Penal Code, on the request of the defendant and with the consent of the attorney representing the state, to defer proceedings without entering an adjudication of guilt and permit the defendant to participate in a prostitution prevention program established under Chapter 169 (First Offender Prostitution Prevention Program) or 169A (Prostitution Prevention Program), Health and Safety Code, if the defendant is otherwise eligible to participate in the program under the applicable chapter. Authorizes the court to dismiss the proceedings against the defendant and discharge the defendant if the defendant successfully completes the prostitution prevention program.

Provides that a person commits an offense if, in return for receipt of a fee, or based on the payment of a fee by the actor or another person on behalf of the actor, the person knowingly: offers to engage, agrees to engage, or engages in sexual conduct; or solicits another in a public place to engage with the actor in sexual conduct for hire. Provides that an offense is established regardless of whether the actor is offered or actually receives or pays a fee. Deletes existing text providing that an offense is established whether the actor is to receive or pay a fee and that an offense is established whether the actor solicits a person to hire the actor or offers to hire the person solicited.

Provides that the offense is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted three or more times of the offense. Deletes existing text providing that the offense is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted one or two times of the offense or a state jail felony if the actor has previously been convicted three or more times of the offense.

Provides that it is a defense to prosecution for an offense that the actor engaged in the conduct that constitutes the offense because the actor was the victim of conduct that constitutes an offense under Section 20A.02 (Trafficking of Persons) or 43.05 (Compelling Prostitution).

Redefines "abuse."
Authorizes the commissioners court of a county or governing body of a municipality to establish a first offender prostitution prevention program for defendants charged with a prostitution offense.

Deletes existing text authorizing the commissioners court of a county or governing body of a municipality to establish a first offender prostitution prevention program for defendants charged with an offense in which the defendant offered or agreed to hire a person to engage in sexual conduct.

Authorizes the commissioners court of a county or governing body of a municipality to establish a prostitution prevention program for defendants charged with an offense in which the defendant offered or agreed to engage in sexual conduct for a fee.

Permitting More Than One Counsel to Appear in Misdemeanor Case—H.B. 1386
by Representative Raymond—Senate Sponsor: Senator Ellis

Under current law, defendants appearing in the municipal court defendants cannot be represented by more than one lawyer. That provision is largely unknown and almost universally overlooked by Texas municipal courts. This bill:

Stikes the statutory provision prohibiting more than one counsel from conducting either the prosecution or defense in the justice of the peace or municipal courts.

Review of Certain Penal Laws—H.B. 1396
by Representative Workman—Senate Sponsor: Senator Burton et al.

A generally accepted canon of statutory construction that requires a criminal law to be interpreted in favor of a defendant subjected to the law should be codified, especially as it relates to criminal laws outside of the Penal Code. This bill:

Defines "actor" and "element of offense."

Requires that a statute or rule that creates or defines a criminal offense or penalty be construed in favor of the actor if any part of the statute or rule is ambiguous on its face or as applied to the case, including an element of offense or the penalty to be imposed. Provides that this does not apply to a criminal offense or penalty under the Penal Code or under the Texas Controlled Substances Act. Provides that the ambiguity of a part of a statute or rule to which this section applies is a matter of law to be resolved by the judge.

Establishes a commission to study and review all penal laws of this state other than criminal offenses: under the Penal Code; under Chapter 481 (Texas Controlled Substances Act), Health and Safety Code; or related to the operation of a motor vehicle. Requires the commission to evaluate all laws listed in this Act, and make recommendations to the legislature regarding the repeal of laws that are identified as being unnecessary, unclear, duplicative, overly broad, or otherwise insufficient to serve the intended purpose of the law.
Provides that the commission is composed of nine appointed members. Requires the officials making appointments to the commission to ensure that the membership of the commission includes representatives of all areas of the criminal justice system, including prosecutors, defense attorneys, judges, legal scholars, and relevant business interests. Requires the governor to designate one member of the commission to serve as the presiding officer of the commission. Provides that a member of the commission is not entitled to compensation or reimbursement of expenses. Requires the commission to meet at the call of the presiding officer.

Requires the commission, not later than November 1, 2016, to report the commission's findings and recommendations to the governor, the lieutenant governor, the speaker of the house of representatives, the Supreme Court of Texas, the Texas Court of Criminal Appeals, and the standing committees of the house of representatives and the senate with primary jurisdiction over criminal justice. Requires the commission to include in its recommendations any specific statutes that the commission recommends revising or repealing.

Requires the governor, the lieutenant governor, the speaker of the house of representatives, the chief justice of the Supreme Court of Texas, and the presiding judge of the Texas Court of Criminal Appeals, not later than November 1, 2015, to appoint the members of the commission.

Provides that the commission is abolished and this section expires December 31, 2016.

**Peace Officer Identification Cards—H.B. 1417**  
*by Representative Elkins—Senate Sponsor: Senator Creighton*

Currently, if a peace officer's identification card is lost or stolen, the law enforcement agency or other governmental entity that issued the card to the peace officer, reserve law enforcement officer, or honorably retired peace officer may issue a duplicate identification card to the officer and may require the officer to submit an affidavit stating that the identification card was lost or stolen. This bill:

Requires the law enforcement agency or other governmental entity that issued the card to issue a duplicate identification card to the officer if the an affidavit executed by the states that the identification card was lost or stolen. This bill:

Requires the law enforcement agency or other governmental entity that issued the card to issue a duplicate identification card to the officer if the an affidavit executed by the states that the identification card was lost or stolen.

Repeals Subchapter H (Peace Officer Identification Cards), Chapter 614, Government Code.

**Increased Penalties for Certain Controlled Substance Offenses—H.B. 1424**  
*by Representative Lozano et al.—Senate Sponsor: Senator Zaffirini*

According to recent reports, synthetic cannabinoids have become a widespread problem throughout Texas, and it has been reported that synthetic cannabinoid abuse may be linked to several illnesses. Despite past efforts to curb its use, there are concerns that the manufacturing, distribution, sale, and use of these drugs persists. H.B. 1424 is another attempt to hinder the use of synthetic cannabinoids. This bill:

Increases the penalty for the offense of knowingly manufacturing, delivering, or possessing with the intent to deliver certain controlled substances to Class A misdemeanor, except that the offense is: a state jail
felony, if the person has been previously convicted of the offense; or a felony of the third degree, if the person has been previously convicted two or more times of the offense.

**Compensation to Victims of Crime Fund—H.B. 1446**

*by Representative Dale et al.—Senate Sponsor: Senators Rodríguez and Garcia*

In order to encourage sexual assault victims to come forward promptly to preserve crucial, perishable forensic evidence, a victim should not be responsible for the cost of a medical examination or collection of evidence following the assault. However, in some cases, a victim is held responsible for such costs. This bill:

Requires a law enforcement agency, with the consent of the victim, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, if a sexual assault is reported to the law enforcement agency within 96 hours of the assault, to request a forensic medical examination of the victim of the alleged assault for use in the investigation or prosecution of the offense. Authorizes a law enforcement agency to decline to request a forensic medical examination only if the person reporting the sexual assault has made one or more false reports of sexual assault to any law enforcement agency and if there is no other evidence to corroborate the current allegations of sexual assault.

Requires a law enforcement agency that requests a forensic medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense to pay all costs of the examination.

Authorizes a law enforcement agency or prosecuting attorney's office to pay all costs related to the testimony of a licensed health care professional in a criminal proceeding regarding the results of the forensic medical examination or manner in which it was performed.

Authorizes the attorney general to make a payment to or on behalf of an individual for the reasonable costs incurred for medical care provided in accordance with Section 323.004 (Minimum Standards for Emergency Services), Health and Safety Code.

Redefines "pecuniary loss" to mean the expense reasonably and necessarily incurred as a result of personal injury or death for reasonable and necessary costs for relocation and housing rental assistance payments, regardless of where the incident occurred.

Provides that a victim of stalking, family violence, or trafficking of persons, or a victim of sexual assault who is assaulted in the victim's place of residence, may receive a onetime-only assistance payment in an amount not to exceed certain amounts set forth.

Authorizes the attorney general to use the compensation to victims of crime fund to: reimburse a law enforcement agency for the reasonable costs of a forensic medical examination that are incurred by the agency under Article 56.06 (Forensic Medical Examination For Sexual Assault Victim Who Has Reported Assault; Costs), or 56.065 (Medical Examination for Sexual Assault Victim Who Has Not Reported Assault; Costs), Code of Criminal Procedure, and make a payment to or on behalf of an individual for the reasonable costs incurred for medical care provided under Article 56.06 or 56.065 in accordance with Section 323.004, Health and Safety Code.
Protective Order for Victims of Sexual Assault or Abuse—H.B. 1447  
*by Representative Dale et al.—Senate Sponsor: Senator Rodríguez*

Current law does not require that a protective order be issued with respect to a person convicted of sexual assault and other related offenses until after the offender has been released from prison. During a criminal proceeding, courts typically place conditions on a defendant's bond, rather than protective orders, to ensure that there is no contact between defendants and victims. However, because bond conditions do not apply after a criminal proceeding, these protections do not extend to a defendant's period of community supervision or at the time of release from prison. This bill:

Expands the list of persons who are authorized to file for a protective order for certain victims of sexual assault or abuse, stalking, or trafficking.

Entitles victims of such offenses or the parents or guardians of the victims additional rights relating to that protective order.

Award of Diligent Participation Credit to Certain Defendants—H.B. 1546  
*by Representative Allan—Senate Sponsor: Senator Rodríguez*

Legislation passed during the 82nd Legislature, Regular Session, 2011, permitted persons in state jails to receive diligent participation credit (DPC) for every day they participate in educational, vocational, treatment, or work programs, allowing them to earn time toward early release. An individual is only eligible for program credits until the 30th day before the date on which 80 percent of his or her sentence has been completed. Currently, the Texas Department of Criminal Justice (TDCJ) records participation, sends a report to the judge of the sentencing court, and waits for the judge to issue an order for early release. Judges are not currently required to grant DPC or order early release for individuals who qualify. This bill:

Requires judge, if a person is convicted of a state jail felony, to make and enter a finding in the judgment of the case regarding whether the person is presumptively entitled to DPC.

Strikes a provision limiting program credits earned to not later than the 30th day before the date on which the defendant will have served 80 percent of the defendant's sentence.

Requires TDCJ to record, rather than to report to the sentencing court, the number of days during which the defendant diligently participated in any educational, vocational, treatment, or work program.

Strikes provision providing that the contents of such a report are not subject to challenge by a defendant.

Authorizes TDCJ, for a defendant who is presumptively entitled to DPC and who has not been the subject of disciplinary action while confined in the state jail felony facility, to grant such defendant DPC against any time the defendant is required to serve in a state jail felony facility.

Requires TDCJ, for a defendant with a judgment that contains a finding that the defendant is not presumptively entitled to DPC or who has been the subject of disciplinary action while confined in the state jail felony facility, to, not later than the 30th day before the date on which the defendant will have served 80
percent of the defendant's sentence, report to the sentencing court the record of the number of days during which the defendant diligently participated in any educational, vocational, treatment, or work program.

Provides that the contents of such a report are not subject to challenge by a defendant.

Authorizes a judge, based on the report, to grant the defendant DPC against any time a defendant is required to serve in a state jail felony facility.

**Testing Certain Defendants or Confined Persons for Communicable Diseases—H.B. 1595**

*by Representatives Murr and Ed Thompson—Senate Sponsor: Senator Whitmire*

Under current law, a detainee arrested for a felony or a misdemeanor must be tested for infectious diseases if the detainee causes the detainee's bodily fluids to come into contact with a peace officer during the commission of the offense or the arrest. Notification of the test results are provided to the peace officer. However, interested parties assert that current law does not adequately provide the same protection for magistrates or correctional facility employees. This bill:

Expands current law to include:
- judicial proceeding or initial period of confinement following the arrest, or during the person's confinement after a conviction or adjudication resulting from the arrest;
- magistrate, or an employee of a correctional facility where the person is confined.

**Criminal Law Hearing Officer in Cameron County—H.B. 1774**

*by Representative Lucio III—Senate Sponsor: Senator Lucio*

District and county courts at law in Cameron County have overloaded dockets, and certain types of proceedings on the dockets could be handled effectively by a criminal law hearing officer. H.B. 1774 seeks to address this important local priority. This bill:

Provides that the jurisdiction of the criminal law hearing officer is limited to, among other duties set forth, presiding over an extradition proceeding under Article 51.13 (Uniform Criminal Extradition Act), Code of Criminal Procedure.

Authorizes a criminal law hearing officer, in accordance with Article 26.13 (Plea of Guilty), Code of Criminal Procedure, to accept a plea of guilty or nolo contendere. Authorizes a criminal law hearing officer to determine whether a defendant is indigent and appoint counsel for an indigent defendant.

Authorizes a district judge or a county court at law judge to refer to a criminal law hearing officer any criminal case for proceedings involving: a bond forfeiture; the arraignment of defendants; the determination of whether a defendant is indigent and the appointment of counsel for an indigent defendant; and a negotiated plea of guilty or nolo contendere before the court, in accordance with Article 26.13, Code of Criminal Procedure.
Protective Orders Relating to Family Violence—H.B. 1782
by Representative Greg Bonnen—Senate Sponsor: Senators Larry Taylor and Uresti

Although current law provides for protective orders when family violence has occurred and is likely to occur in the future, these protections do not always extend to a child whose parents have had their parental rights terminated in situations involving a family violence offense. H.B. 1782 seeks to extend additional protections to such children. This bill:

Provides that there is a presumption that family violence has occurred and is likely to occur in the future if: the respondent has been convicted of or placed on deferred adjudication community supervision for certain offenses against the child for whom the petition is filed; the respondent's parental rights with respect to the child have been terminated; and the respondent is seeking or attempting to seek contact with the child.

Reporting of Misconduct of Public School Employees—H.B. 1783
by Representative Moody et al.—Senate Sponsor: Senator Menéndez

Certain public education professionals note that school administrators sometimes discourage or limit the reporting of crimes that happen in their schools. These professionals also note that the recent prohibition against the issuance of certain tickets to public school students has given some teachers the impression that they are not free to report crimes that happen in their schools. H.B. 1783 seeks to remedy this situation. This bill:

Provides that an open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education), Education Code, relating to the right of a school employee to report a crime.

Authorizes an employee of a school district or open-enrollment charter school to report a crime witnessed at the school to any peace officer with authority to investigate the crime. Prohibits a school district or open-enrollment charter school from adopting a policy requiring a school employee to refrain from reporting a crime witnessed at the school or report a crime witnessed at the school only to certain persons or peace officers.

Provides that a public servant commits an offense if, in reliance on information to which the public servant has access by virtue of the person’s office or employment and that has not been made public, the person coerces another into suppressing or failing to report that information to a law enforcement agency.

Standards for Correctional Officers Employed by TDCJ—H.B. 1855 [VETOED]
by Representative Rose—Senate Sponsor: Senators Whitmire and Rodríguez

While the training for correctional officers includes weapons proficiency and other basic law enforcement principles, it fails to address methods for safely and effectively interacting with individuals who have mental health disorders. According to recent national studies, over half of Texas offenders have a mental health disorder, and interested parties believe that such a circumstance demands further training for correctional staff to ensure the safety of correctional officers and inmate. H.B. 1855 seeks to address these issues by subjecting correctional officers to related continuing education programs. This bill:
Requires the Texas Department of Criminal Justice (TDCJ) to require each correctional officer employed by TDCJ to complete, during the correctional officer's first 24 months of service, not less than 280 hours of training, including 140 hours of on-the-job training and mental health crisis intervention training.

Requires TDCJ, in consultation with the Texas Commission on Law Enforcement, to develop mental health crisis intervention training to be part of the required training. Requires TDCJ by rule to provide temporary exceptions to the requirements for a correctional officer who cannot complete the training due to a medical emergency involving the officer or a member of the officer's family, the officer's active military service, or the officer's unit or facility being unable to provide training in a timely manner due to severe weather or a catastrophic event.

Requires that an exception created by TDCJ ensure compliance with the training requirements as soon as practicable after the period required. Requires TDCJ to indicate in the correctional officer's personnel file that the officer has completed the training. Provides that a correctional officer is not required to complete the training if the officer's personnel file indicates that the officer has completed the training required by this section during a previous period of employment as a correctional officer during the preceding 36 months. Authorizes TDCJ to suspend or otherwise discipline a correctional officer who fails to comply with these requirements.

Requires TDCJ to require each correctional officer employed by TDCJ to complete at least 80 hours of continuing education programs once every 24 months. Authorizes TDCJ to suspend or otherwise discipline a correctional officer who fails to comply with this requirement. Requires a correctional officer, as part of the continuing education, to complete a training and education program that covers the core requirements designated by TDCJ. Requires TDCJ to develop specialized training for correctional officers that may be credited toward continuing education requirements. Requires TDCJ by rule to provide temporary exceptions to the continuing education requirements for a correctional officer who cannot meet the continuing education requirements due to listed exceptions.

Requires TDCJ to designate one or more firearms proficiency officers and requires each correctional officer employed by TDCJ to demonstrate weapons proficiency to a firearms proficiency officer at least annually. Requires TDCJ to maintain records of the weapons proficiency of correctional officers and requires TDCJ by rule to define weapons proficiency.

Offenders With Mental Impairments—H.B. 1908
by Representative Naishat—Senate Sponsor: Senator Garcia

Current law does not adequately identify specific diagnoses for determining eligibility and qualifying offenders with mental impairments for services provided by the Texas Correctional Office on Offenders with Medical or Mental Impairments, which coordinates the continuity of care and transitional case management for eligible participants who are released on probation or parole. Services are limited to offenders with schizophrenia, bipolar disorder, or clinically severe depression diagnoses, leaving offenders with other diagnoses at risk of experiencing deteriorating health conditions, homelessness, unemployment, and financial and emotional instability, all of which are risk factors for recidivism. H.B. 1908 seeks to address this situation by clarifying the eligibility criteria used for identifying and qualifying offenders with mental impairments. This bill:
Requires that the methods established, subject to available resources, and to the extent feasible, ensure that each offender with a mental impairment is identified and qualified for the continuity of care system. Requires that the methods established serve adults with severe and persistent mental illness who are experiencing significant functional impairment due to a mental health disorder that is defined by the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5).

**Frequency of Parole Review for Certain Inmates—H.B. 1914**
by Representatives Dennis Bonnen and Fallon—Senate Sponsor: Senator Hancock.

Under current law, after offenders convicted of aggravated sexual assault or capital murder become eligible for parole and are denied, they must be periodically reconsidered for parole. In some instances, policy dictates that the Board of Pardons and Paroles (BPP) sets the date for reconsideration of these cases, even for egregious offenses, in as little as three years. Because of this, some victims and their families have to begin the painful process of protesting potential parole every two-and-a-half years. This bill:

Extends the amount of time that BPP may delay to 10 years, rather than five year, after the date of the previous denial when reconsidering the release on parole of an offenders serving a sentence for aggravated sexual assault or a life sentence for capital murder.

**Strategic Planning for Community Supervision and Corrections—H.B. 1930**
by Representatives James White and Flynn—Senate Sponsor: Senator Menéndez

Community supervision and corrections departments have experienced difficulty in meeting certain recently enacted requirements relating to community justice plans, and the parties assert that these plans have evolved into meaningless, bureaucratic tasks for most of the departments. These departments would prefer to use a simple process that actually assists in planning for current and future needs and services. H.B. 1930 seeks to remedy this situation by providing for an improved strategic planning process for community supervision and corrections departments. This bill:

Requires the district judge or district judges trying criminal cases in each judicial district and the statutory county court judges trying criminal cases in the county or counties served by the judicial district to approve the budget and strategic plan of the community supervision and corrections department's (department).

Authorizes the commissioners court of a county to establish a community justice council unless a board or council that was in existence on September 1, 1991, is performing duties substantially similar to those imposed on a community justice council. Requires the council to provide continuing policy guidance and direction for criminal justice planning, programs, and initiatives.

Deletes existing text requiring a community justice council to be established by the judges described by Section 76.002 (Establishment of Departments), Government Code, who are served by a department, unless a board or council that was in existence on September 1, 1991, is performing duties substantially similar to those imposed on a community justice council. Deletes existing text requiring the council to provide continuing policy guidance and direction for the development of community justice plans and community corrections facilities, programs, and conditions of community supervision.
Provides that a council may, rather than must, consist of certain persons or their designees as set forth.

Requires the attorney general to defend a statutory county court judge in an action in state or federal court if the cause of action is the result of the judge performing a duty, and the judge requests the attorney general's assistance in the defense.

Authorizes the department to authorize expenditures of funds provided by the community justice assistance division (division) to the department for the purposes of providing facilities, equipment, and utilities for community corrections facilities or state jail felony facilities if the judges recommend, rather than the community justice council recommends, the expenditures.

Prohibits, notwithstanding any other law, a specialty court program from operating until the judge, magistrate, or coordinator provides to the criminal justice division of the governor's office a copy of the applicable strategic plan that incorporates duties related to supervision that will be required under the program and receives from the division written verification of the program's compliance.

Redefines "community corrections facility."

Requires the division to prepare a report that contains a summary of the programs and services provided by departments, as described in each strategic plan submitted to the division.

Requires the division to require as a condition to payment of state aid to a department or county under Section 509.011 (Payment of State Aid) that a strategic plan be submitted for the department. Prohibits a department, rather than community justice council, from submitting a plan under this section unless the plan is first approved by the judges who established the department, rather than the department served by the council. Changes a reference to the council to the department.

Requires that a strategic plan, rather than a community justice plan, include: a statement of goals and priorities and of commitment by the department and the judges who established the department, to achieve a targeted level of alternative sanctions; a summary of the programs and services the department provides or intends to provide, including a separate summary of any services the department intends to provide in relation to a specialty court program; and any programs or other services the department intends to provide to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of restitution collected from persons supervised by the department.

Prohibits a department, a county, a municipality, or a combination involving more than one of those entities from taking an action under Section 76.010 (State Funds or Guarantees for Correction Facilities) unless the entity or entities hold a public meeting before the action is taken, with notice provided and the hearing to be held in the same manner as set forth.

Changes a reference to the community justice council to the department, and reference to community justice plan to strategic plan.
Compensation and Leave for Certain Peace Officers—H.B. 2037

by Representatives Geren and Darby—Senate Sponsor: Senator Hinojosa

Duties of the law enforcement division of the Office of the Attorney General (OAG) include important tasks of conducting criminal investigations, apprehending fugitives and internet predators, and providing assistance to law enforcement. Currently, OAG peace officers are compensated at approximately $20,000 less than the equivalent rank of other state peace officers and receive one-half percent less retirement than those who participate in the law enforcement custodial officer supplemental retirement fund. This bill:

Requires the attorney general to ensure that a commissioned peace officer employed by OAG is compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act.

Expands the definition of "state employee" to include a commissioned law enforcement officer of OAG.

Requires the classification officer in the office of the state auditor to classify the position of commissioned peace officer employed as an investigator by OAG as a Schedule C position under the Texas Position Classification Plan, 1961.

Restitution as Condition of Community Supervision—H.B. 2159

by Representative Moody—Senate Sponsor: Senator Huffman

Despite children suffering profoundly negative effects from witnessing family violence, a child witness of family violence is not considered a victim for purposes of receiving restitution for mental health services. H.B. 2159 seeks to address this issue and help to mitigate the harmful effects of witnessing family violence. This bill:

Requires the court, if after a conviction or a grant of deferred adjudication a court places a defendant on community supervision for an offense involving family violence, as defined by Section 71.004 (Family Violence), Family Code, to determine from the complaint, information, indictment, or other charging instrument, the presentence report, or other evidence before the court whether: the offense was committed in the physical presence of, or in the same habitation or vehicle occupied by, a person younger than 15 years of age; and at the time of the offense, the defendant had knowledge or reason to know that the person younger than 15 years of age was physically present or occupied the same habitation or vehicle.

Requires the court to order the defendant to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for a person if the court determines both issues in the affirmative.

Requires the court, after considering the financial circumstances of the defendant, to specify in a restitution order the manner in which the defendant must pay the restitution. Requires that the order require restitution payments to be delivered in the manner described by Article 42.037(g)(4)(iii) (relating to the deadline for the end of the period or the last installment), Code of Criminal Procedure.

Authorizes a restitution order to be enforced by the state, or by a person or a parent or guardian of the person named in the order to receive the restitution, in the same manner as a judgment in a civil action.
Authorizes the court to hold a hearing, make findings of fact, and amend a restitution order if the defendant fails to pay the person named in the order in the manner specified by the court.

Prohibits a determination under this article from being entered as an affirmative finding in the judgment for the offense for which the defendant was placed on community supervision.

**Search Warrant for DNA Specimen—H.B. 2185**

*by Representatives Clardy and Faircloth—Senate Sponsor: Senator Huffman*

When a suspect is served with a warrant to submit a DNA specimen for the purpose of connecting the suspect to an offense, it can often be laborious and time-consuming for law enforcement personnel to coordinate with the court of proper jurisdiction to obtain the specimen. Critics argue that this inefficient process stymies law enforcement personnel from connecting suspects to crimes committed outside of the respective jurisdictions of those personnel. H.B. 2185 seeks to make the process less of a burden for both law enforcement and the individuals served with DNA specimen warrants. This bill:

Provides that a warrant issued under Article 18.02(10) (relating to property or items that may be searched for and seized with a search warrant), to collect a DNA specimen from a person for the purpose of connecting that person to an offense may be executed in any county in this state. Requires that a warrant executed outside of the county in which the warrant was issued be signed by a judge of a district court with jurisdiction over the original offense.

**Surety Bond Requirements for Reserve Deputy Sheriffs—H.B. 2272**

*by Representative Raney—Senate Sponsor: Senator Schwertner*

Currently, a reserve deputy sheriff, before beginning to perform the duties of office, must file a bond of $2,000 payable to the sheriff. While constables have the ability to execute a blanket surety bond to cover their reserve officers, sheriffs are not permitted to do so. Some state that this inequity in the law unnecessarily limits a sheriff's ability to cover reserve deputies. This bill:

Authorizes a sheriff who appoints more than one reserve deputy sheriff to execute a blanket surety bond to cover the reserve deputy sheriffs.

Authorizes a county to self-insure against losses that would have been covered by the bond.

**Electronic Filing of Bail Bonds—H.B. 2499**

*by Representatives Senfronia Thompson and Herrero—Senate Sponsor: Senator Perry*

Bail bond boards currently use a paper filing system. Using an electronic filing system such as the system mandated in civil courts will ensure savings and reduce paperwork. This bill:

Provides that a bail bond may be filed electronically with a court, judge, magistrate, or other officer taking the bond.
Prosecution of Offenses Involving Family Violence—H.B. 2645
by Representative Blanco et al.—Senate Sponsor: Senator Hinojosa

Current law does not adequately provide for the prudent arrest of a suspect who has removed or attempted to remove a global positioning monitoring system, also known as an ankle monitor. Criminalizing the removal or attempted removal of an ankle monitor would deter suspects from tampering with their monitors and protect victims of family violence, sexual assault or abuse, and stalking. This bill:

Amends the Penal Code to include removing, attempting to remove, or tampering with a global positioning monitoring system (GPS) to the list of behaviors subject to prosecution under the offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case.

Permits each party in a criminal case involving assault against a family member or other offenses to offer testimony or other evidence regarding the nature of the relationship between the defendant and the alleged victim in certain circumstances.

Provides that such an offense is punishable as a Class A misdemeanor or a third degree felony, depending on the circumstances of the offense.

Continuing Education Funding for Telecommunicators—H.B. 2680
by Representatives Greg Bonnen and Ed Thompson—Senate Sponsor: Senator Larry Taylor

Telecommunicators licensed by the Texas Commission on Law Enforcement (TCOLE) are currently ineligible for the continuing education funding from the law enforcement standards and education fund for which other persons licensed by TCOLE are eligible. There is a need to provide for the continuing education of these essential components of Texas' public safety measures. This bill:

Includes a telecommunicator licensed by TCOLE among the persons eligible for continuing education funding through the law enforcement officer standards and education fund.

Training for School District Peace Officers and School Resource Officers—H.B. 2684
by Representatives Giddings and Walle—Senate Sponsor: Senator Whitmire

School resource officers and school district peace officers are not currently required to complete training focused on working with minors in a school setting. Some, but not all, school district police departments require officer training for mental health crisis intervention, but these officers have expressed a need for training to learn techniques which specifically apply to minors in a school setting so that they can properly handle situations without risk of unnecessarily escalating the situation or harming a student. This bill:

Requires that a school district with an enrollment of 30,000 or more students that commissions a school district peace officer or at which a school resource officer provides law enforcement to adopt a policy requiring the officer to complete the education and training program.

Defines "center," "institute," "school district peace officer," and "school resource officer."
Requires the Texas Commission on Law Enforcement (TCOLE), in consultation with an institute or the Texas School Safety Center at Texas State University (center), to create, adopt, and distribute a model training curriculum for school district peace officers and school resource officers.

Requires that the curriculum incorporate learning objectives regarding specific criteria.

Requires TCOLE to provide a 30-day period for public comment before adopting and distributing any curriculum.

Requires TCOLE to provide the curriculum and any supplemental education materials created for the curriculum to: school district police departments; law enforcement agencies that place peace officers in a school as school resource officers under a memorandum of understanding; and any entity that provides training to school district peace officers or school resource officers.

Requires TCOLE to review the curriculum and update subject matter contained in the curriculum as needed at least once every four years.

Requires TCOLE by rule to require a school district peace officer or a school resource officer who is commissioned by or who provides law enforcement at a school district with an enrollment of 30,000 or more students to successfully complete an education and training program described by this section before or within 120 days of the officer's commission by or placement in the district or a campus of the district. Requires the program to consist of at least 16 hours of training, be approved by TCOLE, and provide training in accordance with the curriculum developed.

Provides that a school district peace officer or school resource officer is not required to successfully complete the education and training program if the officer has successfully completed the advanced training course conducted by the National Association of School Resource Officers or a training course equivalent to that course, as determined by TCOLE.

Provides that the education and training program may not require a peace officer to pass an examination, except that TCOLE shall administer an examination to qualify officers to provide the education and training to other officers.

Requires TCOLE to issue a professional achievement or proficiency certificate to a peace officer who completes the education and training program.

Victim-Offender Mediation Programs—H.B. 3184 [VETOED]

by Representatives McClendon et al.—Senate Sponsor: Senator Menéndez

Victim-offender mediation programs can serve an invaluable purpose for the community, as they allow offenders to take responsibility for their actions while giving the victims expedited relief for the harm they have suffered. Restorative justice programs such as victim-offender mediation programs have proven to reduce recidivism and be cost-effective. H.B. 3184 seeks to facilitate the use of such programs. This bill:

Authorizes the establishment, operation, and funding of pretrial victim-offender mediation programs.
CRIMINAL JUSTICE—GENERAL

Authorizes a commissioners court or a governing body of a municipality, in coordination with the attorney representing the state, to adopt administrative and local rules necessary to implement or operate the program.

Requires that the program be made available to persons who have been arrested for or charged with a misdemeanor under Penal Code, Title 7, and have not been previously convicted of a felony or a misdemeanor other than a misdemeanor traffic violation punishable by fine only. Sets forth requirements and procedures regarding the program.

Authorizes a commissioners court or a governing body of a municipality to elect to apply certain provisions in implementing a mediation program that was established before September 1, 2015.

Requires collection of a program participation fee not to exceed $500 from defendants in the program. Provides that the program fee is used to cover the costs of the program.

Requires payment of $15 in court costs by defendants who successfully complete the program.

Training for Peace Officers Appointed to Supervisory Positions—H.B. 3211
by Representative Phil King—Senate Sponsor: Senator Whitmire

Under current law, a peace officer appointed to a supervisory position must receive in-service training on supervision during the 24-month period following the appointment, raising concerns regarding the officer's readiness for such a position. This bill:

Requires a peace officer who is appointed or will be appointed to the officer's first supervisory position to receive in-service training on supervision not earlier than the 12th month before the date of that appointment or later than the first anniversary of the date of that appointment.

Peace Officer Identification Cards—H.B. 3212
by Representative Phil King—Senate Sponsor: Senator Menéndez

There is a need to address a discrepancy between state and federal law regarding the carrying of concealed firearms by qualified retired law enforcement officers, specifically with regard to the eligibility requirement under federal law that the officer carry photo identification issued by the agency from which the officer separated from service. Although state law provides for the issuance of identification cards to honorably retired peace officers who meet weapons proficiency requirements, there are concerns that there is no similar mechanism for the issuance of identification cards to other qualified retired law enforcement officers. This bill:

Defines "qualified retired law enforcement officer."

Requires a law enforcement agency or other governmental entity in this state, on request of a qualified retired law enforcement officer who holds a certificate of proficiency under Section 1701.357 (Weapons Proficiency for Certain Retired Peace Officers and Federal Law Enforcement Officers and for Former Reserve Law Enforcement Officers), Occupations Code, to issue an identification card to the qualified
retired law enforcement officer if the law enforcement agency or other governmental entity: was the last entity to appoint or employ the qualified retired law enforcement officer as a peace officer; or appointed or employed the qualified retired law enforcement officer for 20 years or more and the officer is receiving retirement or pension benefits as a result of that service.

Requires that the identification card include certain information as set forth.

Requires the head of a law enforcement agency or other governmental entity that issued the identification card to recover the identification card on the date the identification card expires.

Requires the law enforcement agency or other governmental entity that issued the card to the peace officer, reserve law enforcement officer, honorably retired peace officer, or qualified retired law enforcement officer, if an identification card issued is lost or stolen, to issue a duplicate identification card to the officer if the officer submits an affidavit executed by the officer to the law enforcement agency or other governmental entity stating that the identification card was lost or stolen.

Criminal History Record Information—H.B. 3579 [VETOED]
by Representative Alonzo et al.—Senate Sponsor: Senator Rodríguez

The law relating to the expunction of criminal records historically has been convoluted and confusing, using the terms "arrest," "charge," and "offense" seemingly interchangeably. This inconsistency has led to disagreement among Texas courts as to whether the proper unit of expunction is the dismissed charge or the entire arrest. A majority of Texas courts have adopted a charge-based approach, meaning that individual charges arising out of an arrest may be expunged even if others are ineligible for expunction, as long as the offense sought to be expunged meets the requirements of the statute. However, a recent court decision interpreted the law to mean that the unit of expunction is the arrest, so that unless every charge arising out of an arrest is eligible for expunction, none of the charges are eligible. Such an approach has never been in the spirit of the expunction law, which should be construed liberally in favor of the unjustly accused, and would also have a chilling effect on plea bargaining. Because of the prevalence of background checks for many types of employment, housing, professional licensure, and a number of other reasons, the effect of a dismissal that is not eligible for expunction is similar to the effect of a conviction. This bill:

Entitles a person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor to have all records and files related to the offense for which the person was arrested, rather than the arrest, if certain conditions are met.

Clarifies certain section of the Code of Criminal Procedure and the Penal Code (regarding expunction of criminal records) by changing references to arrest to offense.

Prohibits a person from expunging offense records and files if the applicable arrest occurred pursuant to a warrant regarding a violation of community supervision.

Provides that a person who intentionally or knowingly absconds from the jurisdiction after being released on bail following an arrest is not eligible for an expunction of the records and files relating to that arrest.
Entitles a person to have expunged any identifying information contained in records and files relating to another person's arrest or to any ensuing criminal proceedings based on that arrest, rather than relating to the arrest of another person expunged, if the only reason for the information identifying the person asserting the entitlement being contained in the offense, rather than arrest, records and files of the person arrested is that the information was falsely given by the person arrested as the arrested person's identifying information.

Provides that when the order of expunction is final the person arrested may deny the occurrence of the arrest and any ensuing criminal proceedings based on the arrest, and to change a reference to arrest to offense.

Requires an accused or defendant, or a party to a civil suit, as applicable, on filing a petition for an order of nondisclosure of criminal history record information in certain cases to pay a fee in the amount of $28.

Authorizes a person who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for a fine-only misdemeanor, other than an offense under the Transportation Code or an offense under a municipal ordinance or county order, to petition the court that convicted or granted a dismissal to the person for an order of nondisclosure. Requires the court, after notice to the state, to hold a hearing on whether the person is entitled to file the petition and whether issuance of the order is in the best interest of justice. Authorizes the court, in determining whether granting the order is in the best interest of justice, to consider the person's criminal history record information among any other factors the court considers relevant. Requires the court, if the court determines that granting the order is in the best interest of justice, to issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the fine-only misdemeanor offense that is the subject of the petition. Authorizes the court, as a condition of granting the petition for a person convicted of the offense, to require the defendant to perform community service, pay a fee, or both perform the community service and pay the fee as if the defendant had been placed on probation pending deferred disposition under Article 45.051 (Suspension of Sentence and Deferral of Final Disposition), Code of Criminal Procedure. Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure under this subsection only to other criminal justice agencies for criminal justice or regulatory licensing purposes, an agency, entity, or the person who is the subject of the order. Authorizes a person to petition the court for an order of nondisclosure only on or after the first anniversary of the conviction or dismissal, as applicable.

Provides that a person is not entitled to petition the court if the person has been previously convicted of or placed on deferred adjudication for any offense other than an offense under the Transportation Code punishable by fine only regardless of whether that offense is subject to an order of nondisclosure of criminal history record information granted under this section or any other law.

Authorizes a person who petitions the court for an order of nondisclosure to file the petition in person, electronically, or by mail.

Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure to certain noncriminal justice agencies or entities only, as set forth.

Authorizes the judge, on written motion of a defendant after completion of two-thirds of the original community supervision period for a state jail felony with respect to which written consent was obtained, to
review the defendant's record and consider whether to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony. Authorizes the judge, on disposition of the community supervision in a manner to, on discharge of the defendant, amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony, if certain conditions are met.

Prohibits a judge who amends a record of conviction from modifying the name of the state jail felony offense for which the judge placed the defendant on community supervision. Provides that a defendant whose record of conviction is amended is not considered to have been convicted of a felony with respect to the modified offense.

Provides that a record of conviction that is amended supersedes and takes the place of the record of conviction as it existed on the original date of conviction. Provides that a judge retains jurisdiction only until the expiration of the term of community supervision.

Authorizes the court, with the written consent of the prosecuting attorney prior to sentencing, to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony.

Legal Services Provided to Criminal Indigent Defendants—H.B. 3633
by Representatives Herrero and Collier—Senate Sponsor: Senator West

Article 42.12 (Community Supervision), Code of Criminal Procedure, contains provisions outlining the terms and instructions for a defendant who has been ordered by the courts to complete a period of community supervision. Subsection (g), Article 26.05 (Compensation of Counsel Appointed to Defend), Code of Criminal Procedure, contains provisions regarding the payment for legal representation performed by appointed counsel. Under existing Texas law, a judge may order a defendant who was represented by appointed counsel to pay in full, or in part, the cost of legal representation if the court can establish that the defendant has the ability to pay. This can be ordered before a case goes to trial or at the time of conviction under Article 26.05(g). Article 42.12(b) also contains provisions regarding the terms of community supervision, including the payment of fines and court costs owed by a defendant.

However, these chapters do not establish the defendant's ability to comply with certain payments required by the courts as part of the term of community supervision prior to ordering those conditions to be met. Neither does current statute limit the amount to be paid by a defendant to the actual costs incurred by a jurisdiction to obtain legal representation for a defendant that is provided by appointed counsel. This bill:

Amends Article 26.05(g) to provide that a defendant may not be ordered to pay an amount that exceeds:
- the actual costs, including any expenses and costs, paid by the county for the legal services provided by an appointed attorney; or
- if the defendant was represented by a public defender's office, the actual amount, including any expenses and costs, that would have otherwise been paid to an appointed attorney had the county not had a public defender's office.

Provides that a judge, when determining the conditions of community supervision, may, if the judge determines that the defendant has financial resources that enable the defendant to offset in part or in whole the costs of the legal services provided to the defendant, require the defendant to reimburse the county for
the costs of the legal services in an amount that the judge finds the defendant is able to pay, except that the defendant may not be ordered to pay an amount that exceeds:

- the actual costs, including any expenses and costs, paid by the county for the legal services provided by an appointed attorney; or
- if the defendant was represented by a public defender's office, the actual amount, including any expenses and costs, that would have otherwise been paid to an appointed attorney had the county not had a public defender's office.

Expands the provision allowing a judge to order a defendant to make certain payments as a term or condition of community supervision to include reimbursement of a county as described in this Act.

Prohibits a judge from imposing as a condition of community supervision the requirement that the defendant reimburse a county for the costs of legal services if the defendant has already satisfied that obligation under Article 26.05(g).

Requires the court to consider the ability of the defendant to make payments before ordering the defendant to make payments.

**Authorized Peace Officers—H.B. 3668**
*by Representative Workman—Senate Sponsor: Senator Menéndez*

An arson investigator seeking access to certain stored communications must coordinate with an authorized peace officer to obtain a search warrant. The investigator's inability to directly obtain a search warrant for such communications limits the investigator's ability to effectively pursue an arson investigation. Communications have routinely led to confessions, arrests, and prosecutions of those responsible for arson fires, and in some cases to excluding persons of interest. This bill:

Includes in the definition of "authorized peace officer" a member of an arson investigating unit commissioned by a municipality, a county, or the state.

**Recorded Interaction With Peace Officer Relating to Intoxication Offense—H.B. 3791**
*by Representative Geren—Senate Sponsor: Senator Hinojosa*

Under current law, persons arrested for certain intoxication offenses are not entitled to a copy of the video recording made during the arrest. This bill:

Provides that a person stopped or arrested on suspicion of an offense regarding driving while intoxicated is entitled to receive from a law enforcement agency employing the peace officer who made the stop or arrest a copy of any video made by or at the direction of the officer that contains footage of the stop, the arrest, the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test, or a procedure in which a specimen of the person's breath or blood is taken.
Oscar "O. J." Hale Crime Lab—H.C.R. 34
   by Representative Raymond—Senate Sponsor: Senator Zaffirini

Oscar "O. J." Hale has served Webb County for more than 40 years as the Webb County District Attorney's Office chief investigator. The Department of Public Safety of the State of Texas (DPS) is completing a new crime lab in Laredo. This bill:

Resolves that in recognition of Hale's career in law enforcement, DPS is directed to name the new crime lab in Laredo the Oscar "O. J." Hale Crime Lab.

Procurement of Services for Victims of Family Violence—S.B. 59
   by Senator Nelson—House Sponsor: Representative Raymond

Currently, funding appropriated to the Texas Council on Family Violence (TCFV) has to go through the procurement process at the Health and Human Services Commission (HHSC). It has been reported that the procurement methods currently being used have led to significant delays in the distribution of certain funds designated for services for family violence survivors and have resulted in overly cumbersome application requirements. This bill:

Provides that the procurement of services for victims of family violence is exempt from the competitive bidding requirements of health and human service agencies.

Requires HHSC to consult with a statewide family violence organization when procuring contracts for such services.

Prohibiting Communications in an Emergency Protection Order—S.B. 112
   by Senator Van Taylor—House Sponsor: Representative Senfronia Thompson

Currently, judges have the authority to issue emergency protective orders for the benefit of certain persons. These protective orders may prohibit an arrested person from assaulting or stalking the person protected, as well as communicating in a threatening way or communicating directly with the person protected under the order, as well as the person's family. This bill:

Authorizes a magistrate, if the magistrate finds good clause, to prohibit the arrested party in the order for emergency protection from communicating in any manner with a person protected under the order or a member of the family or household of that person, except through the party's attorney or a person appointed by the court.

Eligibility of Criminal Defendant for an Order of Nondisclosure—S.B. 130 [VETOED]
   by Senator West—House Sponsor: Representatives Canales and Alonzo

Under a set-aside, a guilty plea is initially entered by the defendant. A set-aside differs from deferred adjudication because under deferred adjudication, there is no admission of guilt and judgment is withheld in
exchange for the promise that all charges will be dismissed following successful completion of the term of community supervision.

Under Section 411.081 (Application of Subchapter), Government Code, a person's records of an offense can be sealed where deferred adjudication was granted after the person successfully completed community supervision under Article 42.12 (Community Supervision), Code of Criminal Procedure, with the exception of certain alcohol-related offenses and other specified offenses. If the person has admitted guilt, the statutory remedy of a pardon is available for a conviction, enabling the records of the offense to be expunged. But a conviction that has been set aside it is not eligible to be sealed because this is only possible for deferred adjudication. Nor can the records be expunged, because the conviction technically no longer exists. This means that the conviction in a set-aside can be disclosed in a criminal history record search. This bill:

Authorizes a person placed on community supervision and with respect to whom the conviction is subsequently set aside by the court to petition for an order of nondisclosure on conviction if the person is not convicted of an offense for which the person would be ineligible for deferred adjudication community supervision.

Requires a court, after notice to the state, an opportunity for a hearing, and a determination that that issuance of the order is in the best interest of justice, to issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the community supervision.

Permits a criminal justice agency to disclose criminal history record information that is the subject of the order only to other criminal justice agencies for criminal justice purposes, certain specified agencies or entities, or the person who is the subject of the order.

Provides that a person may petition for an order of nondisclosure only after:
- the conviction is set aside, if the offense for which the person was placed on community supervision was a misdemeanor; or
- the fifth anniversary of the date the conviction is set aside, if the offense for which the person was placed on community supervision was a felony.

Expands various provisions regarding an order of nondisclosure concerning deferred adjudication to include a conviction that was set aside.

**Violation of Certain Court Orders or Conditions of Bond—S.B. 147**

by Senator Rodriguez et al.—House Sponsor: Representative Hernandez

Currently, two separate provisions of the Penal Code are used to prosecute violations of protective orders. Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Sexual Assault or Abuse, or Stalking Case) covers family violence protective orders, and Section 38.112 (Violation of Protective Order Issued on Basis of Sexual Assault or Abuse, Stalking, or Trafficking) covers sexual assault, stalking, and human trafficking protective orders. Section 25.07 provides more protections for victims and more severe penalties for violations, including the possibility of charging defendants with a
felony for repeat violations under Section 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in Family Violence Case), rather than separate misdemeanor charges for each violation. This bill:

Repeals Section 38.112, Penal Code, and makes conforming changes.

Adds trafficking cases to Section 25.07, Penal Code. Expands an offense under Section 25.07 to include:
- a violation of an order issued under Chapter 7A (Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Code of Criminal Procedure; and
- harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by a condition of bond.

Expands the heading of Section 25.072, Penal Code, to include sexual assault or abuse, stalking, or trafficking.

Requires the bureau of identification and records within the Department of Public Safety of the State of Texas to collect certain information concerning orders and bonds imposed for the protection of the victim in any trafficking case.

**Body-Worn Camera Program for Law Enforcement Agencies—S.B. 158**

*b* by Senator West et al.—*House Sponsor: Representative Fletcher et al.*

S.B. 1074, 77th Legislature, Regular Session, 2001, implemented the statewide use of dashboard cameras, and this video evidence has been proven to protect both citizens and police. The use of body worn cameras (BWCs) has increased dramatically and more law enforcement agencies across the country are implementing BWC programs. In Texas, several cities have tested or fully implemented BWC programs. The use of BWCs by law enforcement will likely continue to expand in the coming years. This bill:

Adds Subchapter N (Body Worn Camera Program) to Chapter 1701 (Law Enforcement Officers), Occupations Code:
- Defines "body worn camera."
- Authorizes the Department of Public Safety of the State of Texas (DPS), a municipal police department of a municipality, or a sheriff to apply to the office of the governor for a grant to defray the cost of equipping peace officers with BWCs if that law enforcement agency employs officers who:
  - are engaged in traffic or highway patrol or regularly detain or stop motor vehicles; or
  - are primary responders who respond directly to calls for assistance from the public.
- Requires the office of the governor to create and implement a matching grant program.
- Requires a law enforcement agency (agency), except DPS, that receives a grant to match 25 percent of the grant money.
- Requires an agency, as a condition of receiving a grant, to annually report to the Texas Commission on Law Enforcement (TCOLE) regarding the costs of implementing a BWC program.
- Requires TCOLE to compile the information and report to the office of the governor and the legislature not later than December 1 of each year.
- Authorizes an agency to enter into an interagency or interlocal contract to receive BWC services
and have the identified operations performed through a program established by the Department of Information Resources.

- Requires an agency that operates a BWC program to adopt a policy for the use of BWCs.
- Sets forth what this policy must include.
- Provides that such a policy may not require policy a peace officer to keep a BWC activated for the entire period of the officer’s shift.
- Requires an agency, before operating a BWC program, to provide training to peace officers who will wear BWCs and any personnel who will come into contact with data obtained from the BWCs.
- Requires TCOLE, in consultation with DPS and other specified entities, to develop or approve a curriculum for training.
- Provides that a peace officer may choose whether to activate a BWC or to discontinue a recording for any nonconfrontational encounter with a person, including an interview of a witness or victim.
- Requires a peace officer who does not activate a BWC in response to a call for assistance to note in the case file or record the reason for not activating the BWC.
- Prohibits a law enforcement agency from permitting its peace officers to use privately owned BWCs if the agency has received a grant under this subchapter.
- Authorizes a peace officer who is employed by an agency that has not received a grant or who has not otherwise been provided with a BWC to operate a privately owned BWC only if permitted by the employing agency.
- Requires an agency that authorizes the use of privately owned BWCs to make provisions for the security and compatibility of the recordings made by those cameras.
- Makes it a Class A misdemeanor offense for a peace officer or other employee of an agency to release a recording created with a BWC without permission of the applicable agency.
- Provides that a recording created with a BWC and documenting an incident that involves the use of deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer may not be deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded.
- Authorizes an agency to release a recording to the public if the law enforcement agency determines that the release furthers a law enforcement purpose.
- Provides that this subchapter does not affect the authority of a law enforcement agency to withhold information related to a closed criminal investigation that did not result in a conviction or a grant of deferred adjudication community supervision.
- Sets forth what information a member of the public must provide when submitting a written request to an agency for information recorded by a body worn camera.
- Provides that certain information that is or could be used as evidence in a criminal prosecution is subject to the requirements of Section 552.021 (Availability of Public Information), Government Code.
- Authorizes an agency seek to withhold information or assert exceptions to disclosure under Chapter 552 (Public Information), Government Code.
- Prohibits an agency from releasing any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.
- Requires the attorney general to set a proposed fee sufficient to cover the cost of reviewing and
making the recording to be charged to members of the public who seek to obtain a copy of a recording.

- Authorizes an agency to waive or reduce the fee if the agency determines that it is in the public interest.
- Provides that a recording is confidential and excepted from the requirements of Chapter 552, if it:
  - was not required to be made under any law or policy adopted; and
  - does not relate to a law enforcement purpose.
- Sets forth the timeliness of requests for an attorney general opinion regarding BWC recordings.
- Defines "voluminous request" and sets forth when an officer for public information who is considered to have promptly produced the information.
- Requires TCOLE to develop or approve a curriculum for the training program required under this Act not later than January 1, 2016.
- Authorizes an agency operating a BWC program on the effective date of this Act to submit any existing policy to TCOLE to determine whether the policy complies with this Act.
- Provides that an agency operating a BWC program on the effective date of this Act is not required to adopt or implement a policy or training program required under this Act before September 1, 2016.

Addition of Certain Substances to the Texas Controlled Substances Act—S.B. 172
by Senators Huffman and Creighton—House Sponsor: Representatives Clardy and Herrero

Synthetic drugs, such as 25I-NBOMe, commonly referred to as I-25, are designer psychedelics which seek to mimic the effects of lysergic acid diethylamide (LSD) or ecstasy, but are substantially more potent and may have fatal consequences. This dangerous class of synthetic drugs is being sold in Texas, resulting in drug overdoses and death. However, these cases cannot be effectively prosecuted because the substance is not currently listed in the Texas Controlled Substances Act (CSA). The CSA, set out in Chapter 481 of the Texas Health and Safety Code, categorizes controlled substances by penalty groups. This bill:

- Expands the definition of "abuse unit" to include the solid form, as well as the liquid form, of a controlled substance.
- Adds certain substances and compounds to Penalty Group 1-A, which consists of LSD, including its salts, isomers, and salts of isomers, and Penalty Group 2, which consists of certain hallucinogenic substances, their salts, isomers, and salts of isomers.
- Removes certain substances from Penalty Group 2.
- Provides that if a substance listed in Penalty Group 2 is approved by the Federal Drug Administration, the inclusion of that substance in the penalty group does not apply and a person may not be convicted for the manufacture or delivery of the substance.
Designation of Synthetic Cannabinoids as Controlled Substances—S.B. 173
by Senators Huffman and Creighton—House Sponsor: Representatives Clardy and Herrero

K2 (aka Spice, Genie, Fire & Ice) is marketed as incense, but is actually a plant product that has been sprayed with a chemical compound that mimics the effects of THC, the active ingredient in marijuana, and is being smoked to produce intoxicating effects. These products are referred to as synthetic cannabinoids or synthetic marijuana. Smoking K2 can have dangerous side effects, including hallucination, severe agitation, elevated heart rate or blood pressure, chest pains, blackouts, tremors, seizures, and cardiac infarction. K2 is banned in 43 states and numerous Texas municipalities have enacted civil penalties regarding the sale and possession of synthetic cannabinoids. In 2011, certain synthetic chemical compounds that mimic naturally occurring cannabinoids were included in Penalty Group 2-A of the Controlled Substances Act (CSA), but the formulations of these synthetic drugs keep changing, limiting the effectiveness of the law. Including the chemical components of these substances will aid enforcement of CSA even as the formulas for these synthetic drugs change. This bill:

Expands the definition of "controlled substance" under CSA to include a substance listed Penalty Group 2-A or 3.

Expands the definition of "controlled substance analogue" to include a substance specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in Penalty Group 2-A.

Adds certain chemical components and compounds derived from such components to Penalty Group 2-A.

Expands Penalty Group 2-A to include any material, compound, mixture, or preparation that contains any quantity of a natural substance, including its salts, isomers, and salts of isomers, listed by name or contained within one of the structural classes defined under this penalty group.

Provides that Penalty Group 2-A includes a controlled substance analogue that:
- has a chemical structure substantially similar to the chemical structure of a controlled substance listed in the applicable penalty group; or
- is specifically designed to produce an effect substantially similar to, or greater than, a controlled substance listed in the applicable penalty group.

False or Misleading Packaging or Advertising of Abusable Synthetic Substances—S.B. 461
by Senator Perry et al.—House Sponsor: Representative Parker

Synthetic drugs have become a widespread problem across the state. The ease with which manufacturers of these drugs alter the chemical makeup of their products to skirt the law puts a strain on local law enforcement agencies, first responders, and hospitals. District attorneys in Lubbock and Abilene have had success in prosecuting such businesses under Section 32.42(b)(4) (relating to the selling of an adulterated or mislabeled commodity), Penal Code. This bill:

Adds Chapter 484 (Abusable Synthetic Substances) to the Health and Safety Code:
- Defines "abusable synthetic substance" (substance) and "mislabeled."
- Makes it an offense to knowingly produce, distribute, sell, or offer for sale a mislabeled substance.
- Provides that an offense under this chapter is a:
  - Class C misdemeanor; or
  - Class A misdemeanor if the actor has previously been convicted of such an offense.
- Authorizes the Texas attorney general or a district, county, or city attorney to institute an action to collect a civil penalty, not to exceed $25,000 a day for each offense, from a person who in the course of business produces, distributes, sells, or offers for sale a mislabeled substance.
- Sets forth what factors the court must consider in determining the amount of the penalty.
- Set forth venue for the suit.
- Requires that a civil penalty recovered in a suit instituted by a local government be paid to that local government.
- Provides that it is an affirmative defense to prosecution or liability under this chapter that:
  - the substance was approved for use, sale, or distribution by a state or federal regulatory agency; and
  - the substance was lawfully produced, distributed, sold, or offered for sale.
- Provides that it is not a defense to prosecution or civil action under this chapter that the substance was labeled with wording indicating the substance is not intended to be ingested.

**Providing TDCJ Inmates With Information Regarding Certain Resources—S.B. 578**

*by Senator Hinojosa et al.—House Sponsor: Representative Allen*

In 2014, the Texas Department of Criminal Justice (TDCJ) released an estimated 70,000 individuals. However, approximately 29,000 individuals discharged from prison and state jail do not qualify for TDCJ’s Reentry and Integration Division programs. Many of these individuals need housing assistance, employment opportunities, and contact information for organizations that will provide medical and mental health care. Research suggests that the most critical period for someone leaving prison is the period immediately following release.

Many Texas private, non-profit, local, and faith-based organizations have compiled locale-specific resource lists that could be made available to incarcerated individuals preparing for their return to society. Access to such resources would assist incarcerated individuals in creating reentry plans based on available community providers, helping them reintegrate into their communities and become productive, law-abiding citizens. This bill:

Requires TDCJ to identify and collaborate with organizations that provide reentry and reintegration resource guides to prepare a resource guide to be made available to all inmates.

Requires TDCJ to make a sufficient number of resource guides available in the Windham School District libraries and in specific areas of a correctional facility.

Requires TDCJ to collaborate with organizations to compile county-specific information packets for inmates.
Requires TDCJ, within the 180-day period preceding the date an inmate will be discharged or released, to provide the inmate with a county-specific information packet for the county that the inmate designates as the inmate's intended residence.

Sets forth minimum information requirements for such county-specific packets.

**Protective Orders for Victims of Certain Offenses—S.B. 630**  
_by Senators Rodríguez and Hinojosa—House Sponsor: Representative Dale_

Currently, Chapter 7A (Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Code of Criminal Procedure, provides for civil protective orders for victims of sexual assault and abuse, stalking, and human trafficking. During a criminal proceeding, courts typically place conditions on a defendant's bond, rather than a protective order, to ensure that there is no contact between the defendant and the victim. However, because bond conditions do not apply after a criminal proceeding, these protections do not extend to a defendant's period of community supervision or at the time of release from prison. This bill:

- Adds victims of trafficking to the list of persons who may file for a protective order without regard to the relationship between the applicant and alleged offender.
- Authorizes a prosecuting attorney acting on behalf of an person or guardian to file for a protective order of certain victims.
- Authorizes a prosecuting attorney acting on behalf of a parent or guardian of certain young victims.
- Amends Article 56.021 (Rights of Victim of Sexual Assault), Code of Criminal Procedure, to include sexual abuse, stalking, or trafficking.
- Sets forth the rights of a victim, or a parent or guardian of a victim, of certain sexual or trafficking offenses regarding the filing of an application for a protective order on behalf of the victim.

**Revocation of a Person's Release on Parole or to Mandatory Supervision—S.B. 790**  
_by Senator Kolkhorst—House Sponsor: Representative Fletcher_

When a prisoner is released on parole, a judge places conditions on the prisoner's release. If the guidelines are not met, the former prisoner is subject to arrest. The parole division (division) of the Texas Department of Criminal Justice (TDCJ) can issue a pre-revocation warrant, also known as a "blue warrant," when a person who is on parole violates the terms of his or her parole. There is no discretion in issuing these warrants based on the severity of the violation. Some blue warrants are issued for parolees who only violate administrative or technical aspects of their parole agreement. The state mandates that all parole violations must result in incarceration until a parole hearing can occur, despite the fact that in many instances there is no intention to revoke the offender's parole. Even though the state forces counties to incarcerate these parolees, the counties receive no financial assistance in providing for the inmates while in their custody. This has resulted in millions of dollars in costs to the counties and led to serious jail overcrowding. County officials have advocated granting county judges more discretion in granting bail for
parole violators who are nonviolent and have only violated a technical or administrative aspect of their parole, as this would help decrease costs and jail overcrowding. This bill:

Authorizes the magistrate of the county in which the person is held in custody to release the person on bond pending the hearing if:

- the person is arrested or held in custody only on a charge that the person committed an administrative violation of release;
- the division included notice on the warrant for the person's arrest that the person is eligible for release on bond; and
- the magistrate determines that the person is not a threat to public safety.

Requires the division to include a notice on the warrant for the person's arrest indicating that the person is eligible for release on bond if the division determines that the person:

- has not been previously convicted of certain specified offenses;
- is not on intensive supervision or super-intensive supervision;
- is not an absconder; and
- is not a threat to public safety.

Provides that certain bail provisions apply to any such release.

Provides that if a designated agent of the Pardons and Paroles Board (PPB) determines that a releasee who appears in compliance with a summons has violated a condition of release, the agent shall notify PPB.

Authorizes the division, after PPB or a parole panel makes a final determination regarding the violation, to issue a warrant requiring the releasee to be held in a county jail pending the return of the releasee to the institution from which the releasee was released.

Prosecution of the Offense of Prostitution—S.B. 825
by Senators Huffman and Garcia—House Sponsor: Representative Senfronia Thompson

There are typically three distinct parties involved in the crime of prostitution: the pimp, the prostitute, and the purchaser. The Penal Code recognizes the role of pimps and other facilitators of commercial sex through Section 43.03 (Promotion of Prostitution), Section 43.04 (Aggravated Promotion of Prostitution), and Section 43.05 (Compelling Prostitution). However, under current Section 43.02 (Prostitution), Penal Code, there is no distinction between the purchaser of prostitution services and the prostituted individual. This bill:

Provides that a person commits an offense if, based on the payment of a fee by the actor or another person on behalf of the actor, the person knowingly:

- offers to engage, agrees to engage, or engages in sexual conduct; or
- solicits another in a public place to engage with the actor in sexual conduct for hire.

Provides that an offense is established regardless of whether:

- the actor is offered or actually receives the fee; or
• the actor or another person on behalf of the actor offers or actually pays the fee.

Provides that this offense is a Class B misdemeanor, except that the offense is:
• a Class A misdemeanor if the actor has previously been convicted one or two times of this offense; or
• a state jail felony if the actor has previously been convicted three or more times of this offense.

Authorizes the commissioners court of a county or governing body of a municipality to establish a first offender prostitution prevention program for defendants charged with an offense under this Act.

Prosecution of the Offense of Obstruction or Retaliation—S.B. 923

by Senator Watson—House Sponsor: Representative Zedler

Current law does not expressly prohibit the act commonly referred to as "doxing," which involves posting the personal information of individuals online with malicious intent. Individuals often target law enforcement officers and their family members in retaliation against an officer performing the officer's sanctioned duties. This bill:

Amends the Penal Code to expand the conduct that constitutes an offense of retaliation to include posting on a publicly accessible website the residence address or telephone number of an individual the actor knows is a public servant or a member of a public servant's family or household with the intent to cause harm or a threat of harm to the individual or a member of the individual's family or household in retaliation for or on account of the service or status of the individual as a public servant.

Enhances the penalty for such conduct from a third degree felony to a second degree felony if the conduct results in the bodily injury of a public servant or a member of a public servant's family or household. Establishes that it is prima facie evidence of the intent to cause harm or a threat of harm to an individual the person knows is a public servant or a member of a public servant's family or household if the actor receives a written demand from the individual to not disclose the address or telephone number for reasons of safety and either fails to remove the address or telephone number from the publicly accessible website within a period of 48 hours after receiving the demand or reposts the address or telephone number on the same or a different publicly accessible website, or makes the information publicly available through another medium, within a period of four years after receiving the demand, regardless of whether the individual is no longer a public servant.

Prohibited Disposition of Remains of Certain Decedents—S.B. 988

by Senator Perry—House Sponsor: Representatives Frullo and Burrows

Current law prohibits an individual from controlling the remains of a person if they have been charged in relation to that person's death. This is meant to protect victims and their families from being required to obtain permission from the suspected killer before burying their relative. However, there are currently no consequences for a funeral home director who violates this law. As a result, undue anguish has been visited upon the surviving families of certain victims as they negotiate burial arrangements. This bill:
Provides that this Act may be cited as the Holly Combs Act.

Establishes that a person subject to regulation by the Texas Funeral Service Commission (commission) commits a prohibited practice if the person knowingly allows an individual charged with a criminal homicide offense that involves family violence against a decedent to control the disposition of the decedent's remains. Authorizes the commission to take disciplinary action or assess an administrative penalty against the regulated person.

**Rehabilitative Education at Residential Treatment Facility—S.B. 1070**

*by Senator Hinojosa—House Sponsor: Representative Moody*

Texas courts are required to include as a condition of community supervision that a defendant convicted of certain intoxication offenses, repeat offenses enhanced because of intoxication, and certain controlled substance offenses complete a rehabilitative educational program. Courts are permitted to grant an extension of time or waive the educational requirement if the defendant shows good cause by a motion in writing. However, the educational requirement is currently not satisfied if a defendant receives equivalent rehabilitative education while mandated to reside at a substance abuse treatment facility as a requirement of community supervision. This bill:

Replaces references to the Texas Commission on Alcohol and Drug Abuse with the Department of State Health Services (DSHS).

Requires a judge to waive the educational program requirement if the defendant charged with certain intoxication offenses successfully completes equivalent education at a residential treatment facility.

Requires the director of the residential treatment facility, at the request of the court clerk, to give notice to the Department of Public Safety of the State of Texas (DPS) that the person successfully completed equivalent education for inclusion in the person's driving record.

Requires DSHS to approve equivalent education provided at substance abuse treatment facilities and the executive commissioner of the Health and Human Services Commission to adopt rules implementing this Act.

Sets forth what facilities qualify as substance abuse treatment facilities.

Authorizes a person whose driver's license is suspended to successfully complete education on the dangers of drug abuse while the person is a resident of a facility for the treatment of drug abuse or chemical dependency.

Provides that the period of suspension or prohibition continues until the individual is released from the residential treatment facility at which the individual successfully completed equivalent education.

Provides that DSHS:

- must monitor, coordinate, and provide training to residential treatment facilities that provide equivalent education;
must administer approval of the equivalent education provided in a residential treatment facility; and

may charge a nonrefundable application fee to the provider of an educational program.

Requires DPS, on payment of the applicable fee, to reinstate or reissue a person's license if DPS receives notification that the person has successfully completed an equivalent education in a residential treatment facility.

**Disclosure or Promotion of Certain Intimate Visual Material—S.B. 1135**

_Senator Garcia et al._—_House Sponsor: Representative Mary González_

In recent years, there has been an Internet trend of sexually explicit images being disclosed without the consent of the depicted person. Victims' images are often posted with identifying information such as name, contact information, and links to their social media profiles. The victims are frequently threatened with sexual assault, harassed, stalked, fired from jobs, and forced to change schools. Some victims have committed suicide. In many instances, the images are disclosed by a former spouse or partner who is seeking revenge. This practice has been commonly referred to as "revenge porn" by the media. Revenge porn websites further prey on victims by charging fees to remove the sexually explicit images from the Internet. This bill:

Adds Chapter 98b (Unlawful Disclosure or Promotion of Intimate Visual Material) to the Civil Practice and Remedies Code:

- Defines "intimate visual material" (material).
- Provides that a defendant is liable to a person depicted in material for damages arising from the disclosure of the material if:
  - the defendant discloses the material without the depicted person's effective consent;
  - the material was obtained by the defendant or created under circumstances in which the depicted person had a reasonable expectation that the material would remain private;
  - the disclosure of the material causes harm to the depicted person; and
  - the disclosure of the material reveals the identity of the depicted person.
- Provides that a defendant is liable to a person depicted in such material for damages arising from the promotion of the material if, knowing the character and content of the material, the defendant promotes material on an Internet website or other forum for publication that is owned or operated by the defendant.
- Requires that a prevailing claimant be awarded actual damages, including damages for mental anguish, court costs, and reasonable attorney's fees.
- Provides that a prevailing claimant may also recover exemplary damages.
- Authorizes a court, on the motion of a party, to issue a temporary restraining order or a temporary or permanent injunction to restrain and prevent the disclosure or promotion of material with respect to the person depicted in the material.
- Authorizes a court that issues a temporary restraining order or a temporary or permanent injunction to award to the party who brought the motion damages in the amount of:
  - $1,000 for each violation of the court's order or injunction, if the disclosure or promotion of material is wilful or intentional; or
  - $500 for each violation of the court's order or injunction, if the disclosure or promotion is not
wilful or intentional.

- Provides that a cause of action under this chapter is cumulative of any other remedy provided by law.
- Provides that a court has personal jurisdiction over a defendant under this chapter if:
  - the defendant resides in this state;
  - the claimant depicted in the material resides in this state;
  - the material is stored on a server that is located in this state; or
  - the intimate visual material is available for view in this state.
- Requires that this chapter be liberally construed to promote its underlying purpose to protect persons from the disclosure or promotion of material.
- Provides that this chapter does not apply to a claim brought against an interactive computer service for a disclosure or promotion of material provided by another person.

Adds Section 21.16 (Unlawful Disclosure or Promotion of Intimate Visual Material) to the Penal Code:

- Provides that a person commits an offense if the person:
  - intentionally discloses visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct without the depicted person's effective consent;
  - the material was obtained by the person or created under circumstances in which the depicted person had a reasonable expectation that the material would remain private;
  - the disclosure of the material causes harm to the depicted person; and
  - the disclosure of the visual material reveals the identity of the depicted person in any manner.
- Makes it an offense for a person to intentionally threaten to disclose, without the consent of the depicted person, visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct in order to obtain a benefit in return for not making the disclosure or in connection with the threatened disclosure.
- Makes it an offense for a person, knowing the character and content of the visual material, to promote visual material on an Internet website or other forum for publication that is owned or operated by the person.
- Provides that it is not a defense to prosecution that the depicted person:
  - created or consented to the creation of the visual material; or
  - voluntarily transmitted the visual material to the actor.
- Provides that it is an affirmative defense to prosecution that:
  - the disclosure or promotion is made in the course of lawful and common practices of law enforcement or medical treatment, reporting unlawful activity, or a legal proceeding, if the disclosure or promotion is permitted or required by law;
  - the disclosure or promotion consists of visual material depicting in a public or commercial setting only a person's voluntary exposure of the person's intimate parts or the person engaging in sexual conduct; or
  - the actor is an interactive computer service and the disclosure or promotion consists of visual material provided by another person.
- Provides that an offense is a Class A misdemeanor.
- Provides that if the conduct that constitutes an offense under this section also constitutes an offense under another law, the actor may be prosecuted under either or both laws.
Offense of Invasive Visual Recording—S.B. 1317
by Senator Menéndez—House Sponsor: Representative Doug Miller et al.

There have been several reports in Texas of individuals who have had invasive and improper photographs taken of them without their consent and who have attempted to pursue a legal remedy without success because of a recent Texas Court of Criminal Appeals ruling that the statute governing the offense of improper photography or visual material is overly broad, particularly in regard to the offender's intent in taking such invasive photographs. The court found that, in such cases, with respect to the actor's intent to arouse or gratify sexual desire, the legislature cannot legislate a person's mind. This bill:

Defines "female breast," "intimate area," "place in which a person has a reasonable expectation of privacy," and "promote."

Amends the Penal Code to rename the offense of "improper photography or visual recording" the "offense of invasive visual recording." Removes from the conduct constituting the offense the conditions that the actor commits the offense with the intent to arouse or gratify the sexual desire of any person, if the image or recording is of another at a location that is not a bathroom or private dressing room, or that the actor commits the offense with the intent either to invade the other person's privacy or to arouse or gratify the sexual desire of any person, if the image or recording is of another in a bathroom or private dressing room.

Makes it an offense for a person, without another person's consent and with intent to invade that other person's privacy, to photograph or by videotape or other electronic means record, broadcast, or transmit a visual image of an intimate area of another person if the other person has a reasonable expectation that the intimate area is not subject to public view; to photograph or by videotape or other electronic means record, broadcast, or transmit a visual image of another in a bathroom or changing room; or to promote such a photograph, recording, broadcast, or transmission knowing the character and content of the photograph, recording, broadcast, or transmission.

Amends the Code of Criminal Procedure to prohibit a court, during the course of a criminal hearing or proceeding concerning an invasive visual recording offense committed against a child younger than 14 years of age from making available, or allowing to be made available, the copying or dissemination to the public of property or material that constitutes or contains an invasive visual image that was seized by law enforcement based on a reasonable suspicion that such an offense has been committed. Requires a court to place such property or material under seal of the court on the conclusion of the hearing or proceeding and authorizes a court that places such property or material under seal to issue an order lifting the seal on a finding that the order is in the best interest of the public. Requires the attorney representing the state to be provided access to such property or material and requires the defendant, the defendant's attorney, and any individual the defendant seeks to qualify to provide expert testimony at trial to be provided access to such property or material in the manner provided by the bill's provisions.

Requires a court to allow discovery of property or material that constitutes or contains an invasive visual image of a child younger than 14 years of age that was seized by law enforcement based on a reasonable suspicion that an invasive visual recording offense has been committed but requires such property or material to remain in the care, custody, or control of the court or the state as provided by the bill's provisions. Requires a court to deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce any such property or material, provided that the state makes the property or material reasonably available to the defendant and establishes that property or material is considered to be
reasonably available to the defendant if, at a facility under the control of the state, the state provides ample opportunity for the inspection, viewing, and examination of the property or material by the defendant, the defendant's attorney, and any individual the defendant seeks to qualify to provide expert testimony at trial.

Confidentiality of Information Regarding an Execution—S.B. 1697
by Senator Huffman—House Sponsor: Representative Smithee et al.

The Texas Department of Criminal Justice has received multiple requests for information about the use and procurement of the compound used to execute Texas convicts sentenced to death. The Open Records Division of the Office of the Attorney General has previously ruled that some of this information might be protected under the Texas Public Information Act (TPIA), while similar information might not be. Based on the conflicting open records decisions and threatened or ongoing litigation regarding the confidentiality of this information, explicit statutory authority is needed to withhold this information. This bill:

Exempts from TPIA the name, address, or other identifying information under Article 43.14 (Execution of Convict), Code of Criminal Procedure, including that of any person:
- who participates in an execution procedure, including a person who uses, supplies, or administers a substance during the execution; and
- or entity that manufactures, transports, tests, procures, compounds, prescribes, dispenses, or provides a substance or supplies used in an execution.

Creation of the Offense of Cargo Theft—S.B. 1828
by Senator Zaffirini—House Sponsor: Representative Fletcher

Cargo theft by organized crime rings has become a very serious problem in this state. By some estimates, Texas leads the nation in the incidence of cargo theft. Existing Penal Code provisions addressing theft and organized crime present significant impediments to the prosecution of this activity. For example, an element of the crime of theft is the appropriation of property without the owner's effective consent. In cargo theft cases involving collusive drivers, however, the initial bailment of the property is consented to by the owner, making it difficult to establish at what point the driver's conduct vitiates the owner's consent for purposes of charging theft.

Another impediment to prosecuting cargo theft under current law results from the fact that most cargo theft is undertaken by sophisticated, organized crime rings. Under current law, a person found in possession of stolen property may be prosecuted individually, but to reach others involved in the theft under Texas' organized crime statute would require the prosecutor to establish a "combination" of "three or more persons who collaborate in carrying on criminal activities"—a very difficult showing to make. Further, under the standard punishment "ladder" for theft, low-value thefts can be prosecuted as misdemeanors. While this might be a suitable deterrent for amateur or opportunistic criminals, it is not a deterrent against organized crime syndicates that employ expendable "pawns." This bill:

Adds Section 31.18 (Cargo Theft), to the Penal Code:
- Defines "cargo."
- Provides that a person commits an offense if the person:
o knowingly or intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barterers, sells, abandons, or disposes of stolen cargo or cargo explicitly represented to the person as being stolen cargo; or
o is employed as a driver lawfully contracted to transport a specific cargo by vehicle from a known point of origin to a known point of destination and, with the intent to conduct, promote, or facilitate cargo theft, knowingly or intentionally fails to deliver the entire cargo to the known point of destination as contracted or causes the seal to be broken on the vehicle or on an intermodal container containing any part of the cargo.

• Sets forth a schedule of offenses for a violation under this section.
• Provides that the total value of the cargo involved in the activity includes the value of any vehicle stolen or damaged in the course of the same criminal episode.
• Provides that an offense is increased to the next higher category of offense if it is shown at trial that the person organized, supervised, financed, or managed one or more other persons engaged in cargo theft.
• Provides that it is not a defense to prosecution that:
  o the offense occurred as a result of a deception or strategy on the part of a law enforcement agency;
  o the actor was provided by a law enforcement agency with a facility in which to commit the offense or with an opportunity to engage in conduct constituting the offense; or
  o the actor was solicited to commit the offense by a peace officer, and the solicitation was of a type that would encourage a person predisposed to commit the offense to actually commit the offense but would not encourage a person not predisposed to commit the offense to actually commit the offense.

Order of Nondisclosure—S.B. 1902

by Senator Perry et al.—House Sponsor: Representative Herrero et al.

An order of nondisclosure (OND) provides for the sealing of an individual's criminal record (or part of their criminal record) from the general public. An OND also allows an offender to not disclose their criminal record to employers or landlords when asked. However, even after the grant of an OND, the record is still available to certain law enforcement agencies, financial institutions, healthcare institutions, and educational entities. Currently, only certain individuals who have had their felony or misdemeanor dismissed after completion of a term of deferred adjudication are eligible for an OND. This does not apply to a large group of individuals who have been convicted and either incarcerated or completed community supervision for certain low or non-violent, non-sexual misdemeanors the opportunity to receive an OND.

A criminal record can be a crippling barrier to obtaining employment. Studies show that ex-offenders who are gainfully employed are much less likely to re-offend. A limited expansion of current nondisclosure law may give reformed offenders a second chance, creating a safer Texas, and increasing the workforce with individuals who are no longer limited by their minor criminal histories. This bill:

Adds Section 411.072 (Procedure for Deferred Adjudication Community Supervision; Certain Nonviolent Misdemeanors) to the Government Code:

• Provides that this section applies only to a person who:
  o was placed on deferred adjudication community supervision under Section 5 (Deferred
Adjudication; Community Supervision), Article 42.12 (Community Supervision), Code of Criminal Procedure, for certain nonviolent misdemeanors; and
  - has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than an offense under the Transportation Code that is punishable by fine only.

- Requires the court that placed the person on deferred adjudication community supervision to issue an OND if the person receives a discharge and dismissal and satisfies the requirements of Section 411.074 (Required Conditions for Receiving an Order of Nondisclosure), Government Code.
- Requires the court to determine whether the person satisfies the requirements of Section 411.074, and, if the court finds that the requirements of that section are satisfied, to issue the OND:
  - at the time the court discharges and dismisses the proceedings against the person, if the discharge and dismissal occurs on or after the 180th day after the date the court placed the person on deferred adjudication community supervision; or
  - as soon as practicable on or after the 180th day after the date the court placed the person on deferred adjudication community supervision, if the discharge and dismissal occurred before that date.
- Requires the person to present to the court any evidence necessary to establish that the person is eligible to receive an OND and to pay a $28 fee to the clerk of the court before the court issues the order.

Sets forth the procedure for a person placed on deferred adjudication community supervision who is not eligible to receive an order of nondisclosure of criminal history record information under Section 411.072 to petition the court for an OND if the person satisfies the requirements of Section 411.074.

Adds Section 411.073 (Procedure for Community Supervision Following Conviction; Certain Misdemeanors) to the Government Code:
- Provides that this section applies only to a person placed on community supervision under a provision of Article 42.12, other than Section 5, following a conviction of a misdemeanor other than a misdemeanor for certain alcoholic beverage or organized crime offenses.
- Authorizes such a person who completes the period of community supervision to petition the court that placed the person on community supervision for an OND if the person:
  - satisfies the requirements of this section and Section 411.074; and
  - has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than an offense under the Transportation Code that is punishable by fine only.
- Requires a court to issue an OND related to the offense giving rise to the community supervision after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice.
- Sets forth when a person may petition the court that placed the person on community supervision for an OND.

Adds Section 411.0735 (Procedure for Conviction and Confinement; Certain Misdemeanors) to the Government Code:
- Provides that this section applies only to a person who:
  - is convicted of a misdemeanor other than a misdemeanor for certain alcoholic beverage or organized crime offenses;
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- is sentenced to and serves a period of confinement; and
- is not eligible for an OND under Section 411.073.

- Provides that such a person who completes the period of confinement and is released may petition the court that imposed the sentence for an order of nondisclosure of criminal history record information under this section if the person:
  - satisfies the requirements of this section and Section 411.074; and
  - has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than an offense under the Transportation Code punishable by fine only.

- Requires a court to issue an OND after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice.

- Authorizes a person to petition the court for an OND under this section only on or after the second anniversary of the date of completion of the period of confinement.

Redesignates current statute as Section 411.074 (Required Conditions for Receiving an Order of Nondisclosure):

- Provides that a person may be granted an OND only if, during the period after the court pronounced the sentence or placed the person on deferred adjudication community supervision for the offense for which the order of nondisclosure is requested, and during any applicable waiting period after completion of the sentence or deferred adjudication community supervision, the person is not convicted of or placed on deferred adjudication community supervision under for any offense other than an offense under the Transportation Code punishable by fine only.

- Provides that a person may not be granted an OND and is not entitled to petition the court for an OND if the person was convicted or placed on deferred adjudication community supervision for or has been previously convicted or placed on any other deferred adjudication community supervision for:
  - an offense requiring registration as a sex offender;
  - certain specified offenses, including aggravated kidnapping, murder and capital murder, trafficking of persons, injury to a child, or certain offenses against the family; or
  - any offense involving family violence.

Makes conforming changes throughout the statutes.

Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an OND only to other criminal justice agencies, for criminal justice or regulatory licensing purposes, certain specified agencies or entities, or the person who is the subject of the order.

Includes in those entities entitled to disclosure:

- A bank, savings and loan association, or another financial institution regulated by a state or federal regulatory entity regarding an employee, contractor, subcontractor, intern, or volunteer of or an applicant for employment by that financial institution; and

- an employer that has a facility that handles or has the capability of handling, transporting, storing, processing, manufacturing, or controlling hazardous, explosive, combustible, or flammable materials, if:
  - the facility is critical infrastructure, as defined federal law, or the employer is required to submit
to a risk management plan under federal law for the facility; and

- the information concerns an employee, applicant for employment, contractor, or subcontractor whose duties involve or will involve the handling, transporting, storing, processing, manufacturing, or controlling hazardous, explosive, combustible, or flammable materials and whose background is required to be screened under a federal provision.

Provides that criminal history record information that is related to a conviction and is the subject of an OND may be:

- admitted into evidence during the trial of any subsequent offense if the information is admissible under the Texas Rules of Evidence or another law; or
- disclosed to a prosecuting attorney for a criminal justice purpose.

Requires a court, after pronouncing certain sentences, to inform an eligible defendant of the defendant's right to petition the court for an OND.

Amends Section 5, Article 42.12, to require judge who dismisses the proceedings against a defendant and discharges the defendant, if the judge determines that the defendant is or may become eligible for an OND, as applicable, to:

- grant an OND to the defendant;
- inform the defendant of the defendant's eligibility to receive an OND without a petition and the earliest date on which the defendant is eligible to receive the order; or
- inform the defendant of the defendant's eligibility to petition the court for an OND and the earliest date the defendant is eligible to file the petition.

Requires a judge who places a defendant charged with certain misdemeanors on deferred adjudication community supervision to make an affirmative finding of fact and file a statement of that affirmative finding with the papers in the case if the judge determines that it is not in the best interest of justice that the defendant receive an automatic OND.
The 81st Legislature created the Human Trafficking Prevention Task Force (task force) to create a statewide partnership between law enforcement agencies, social service providers, nongovernmental organizations, legal representatives, and state agencies that are fighting on the front line against human trafficking. The task force works to develop policies and procedures to fulfill that purpose and proposes legislative recommendations to better protect adult and child victims of human trafficking. H.B. 10 seeks to prevent and ultimately eliminate human trafficking by enacting the recommendations made by the task force in the 2014 Human Trafficking Prevention Task Force Report. This bill:

Amends Article 12.01 (Felonies), Code of Criminal Procedure, to authorize felony indictments, except as provided in Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), to be presented within certain limits and not afterward and deletes existing text including the offense of compelling prostitution under Section 43.05(a)(2), Penal Code, among the offenses for which the statute of limitations is ten years from the 18th birthday of the victim.

Redefines "trafficking of persons."

Amends Article 56.41 (Approval of Claim), Code of Criminal Procedure, by adding Subsection (b-1) to provide that Subsection (b)(3) (authorizing the attorney general to deny compensation to a claimant who knowingly and willingly participated in the injurious conduct) does not apply to a claimant or victim who seeks compensation for criminally injurious conduct that is in violation of Section 20A.02(a)(7) (providing that a person commits an offense if the person knowingly traffics a child and by any means causes the trafficked child to engage in, or become the victim of, certain prohibited conduct), Penal Code; or for trafficking of persons, if the criminally injurious conduct the claimant or victim participated in was the result of force, fraud, or coercion.

Amends Article 56.45, Code of Criminal Procedure, to provide that Subsection (a)(4) (authorizing the attorney general to deny or reduce an award otherwise payable if the claimant or victim has not cooperated with law enforcement), if the activity the claimant or victim engaged in was the result of force, fraud, or coercion.

Redefines "reportable conviction or adjudication."

Requires the Texas Education Agency (TEA) to develop a policy governing the reports of child abuse or neglect, including reports related to the trafficking of a child under certain sections of Chapter 20A (Trafficking of persons), Penal Code, as required by Chapter 261 (Investigation of Report of Child Abuse or Neglect), Family Code, for school districts, open-enrollment charter schools, and their employees. Requires that the policy require each school district and open-enrollment charter school employee to report child abuse or neglect, including the trafficking of a child under Section 20A.02, Penal Code, in the manner required by Chapter 261, Family Code.
Requires the Supreme Court of Texas (supreme court) to provide judicial training related to the problems of family violence, sexual assault, trafficking of persons, and child abuse and to issues concerning sex offender characteristics. Requires that the instruction include certain information regarding case law, statutory law, procedural rules relating to family violence, sexual assault, trafficking of persons, child abuse, methods for providing protection for victims of family violence, sexual assault, trafficking of persons, and dynamics and effects of being a victim of family violence.

Requires the court of criminal appeals to assure that judicial training related to the problems of family violence, sexual assault, trafficking of persons, and child abuse and neglect is provided, and sets forth the required content of the training. Provides that each judge or judicial officer who files an affidavit stating that the judge or judicial officer does not hear any cases involving family violence, sexual assault, trafficking of persons, or child abuse and neglect is exempt from the training requirements set forth.

Sets forth the composition of the task force.

Requires that the task force collaborate with certain law enforcement agencies as needed to fulfill the duties of the task force to develop and conduct training for law enforcement personnel, victim service providers, and medical service providers to identify victims of human trafficking; and develop recommendations on how to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and investigate and prosecute human trafficking offenders.

Requires the following state agencies to designate an individual who is authorized to coordinate the agency's resources to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and investigate and prosecute human trafficking offenders: the Texas Alcoholic Beverage Commission; the Department of Family and Protective Services; the Department of Public Safety; the Department of State Health Services; the Health and Human Services Commission; the Texas Juvenile Justice Department; the office of the attorney general; and the office of the governor. Requires each state agency to provide to the task force the name of the individual from the listed agencies. Provides that this requirement expires September 1, 2017, rather than September 1, 2015.

Defines "child sex trafficking" and "unit."

Requires the governor to establish the Child Sex Trafficking Prevention Unit (unit) within the criminal justice division. Requires the governor to appoint a director for the unit to serve at the pleasure of the governor. Requires the unit to: assist the previously listed agencies in leveraging and coordinating state resources directed toward child sex trafficking prevention; facilitate collaborative efforts among the agencies to prevent child sex trafficking, recover victims of child sex trafficking, and place victims of child sex trafficking in suitable short-term and long-term housing; collect and analyze research and information in all areas related to child sex trafficking, and distribute the research, information, and analyses to the agencies and to relevant nonprofit organizations; refer victims of child sex trafficking to available rehabilitation programs and other resources; provide support for child sex trafficking prosecutions; and develop recommendations for improving state efforts to prevent child sex trafficking, to be submitted to the legislature as part of the criminal justice division's biennial report.

Provides that a person commits an offense if, during a period that is 30 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20A.02 (Trafficking of Persons) against one or more victims.
Amends Chapter 20A, Penal Code, by adding Section 20A.04 to provide that a party to an offense under this chapter may be required to provide evidence or testify about the offense. Provides that a party to an offense under this chapter may not be prosecuted for any offense about which the party is required to provide evidence or testify, and the evidence and testimony from being used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury, and defines "adjudicatory proceeding." Provides that a conviction under this chapter may be had on the uncorroborated testimony of a party to the offense. Provides that an offense under this section is a Class B misdemeanor, except that the offense is a felony of the second degree if the person solicited is represented to the actor as being younger than 18 years of age, or believed by the actor to be younger than 18 years of age.

Provides that the change in law made by this Act to Article 12.01, Code of Criminal Procedure, does not apply to an offense if the prosecution of that offense becomes barred by limitation before the effective date of this Act. Provides that the prosecution of that offense remains barred as if this Act had not taken effect.

Provides that the changes in law made by this Act to Chapter 56, Code of Criminal Procedure, apply prospectively. Provides that a criminal offense was committed or a violation occurred before the effective date of this Act if any element of the offense or violation occurred before that date.

Provides that the changes in law made by this Act to Article 62.001(5), Code of Criminal Procedure, and Sections 20A.03 and 43.02, Penal Code, apply prospectively. Provides that an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Requires the Supreme Court of Texas, not later than December 1, 2015, to adopt the rules necessary to provide the training required under Section 22.011, Government Code, as amended by this Act.

Requires the Texas Court of Criminal Appeals, not later than December 1, 2015, to adopt the rules necessary to provide the training required under Section 22.110, Government Code, as amended by this Act.

Requires a judge, master, referee, and magistrate who is in office on the effective date of this Act, notwithstanding Section 22.110, Government Code, as amended by this Act, to complete the training required by Section 22.110, Government Code, as amended by this Act, as applicable, not later than December 1, 2017.

Provides that the change in law made by this Act in adding Section 20A.04, Penal Code, applies prospectively.

Continuation of the Human Trafficking Prevention Task Force—H.B. 188

by Representative Senfronia Thompson et al.—Senate Sponsor: Senators Menéndez and Zaffirini

H.B. 4009, enacted by the 81st Legislature, Regular Session, 2009, created the Human Trafficking Prevention Task Force (task force). The task force, composed of law enforcement agencies, nongovernmental organizations, legal representatives, and state agencies, develops policies and procedures to assist in the prevention and prosecution of human trafficking crimes, as well as proposes legislative recommendations. The current law authorizing the task force will expire September 1, 2015. This bill:
Changes the composition of the task force by adding a representative from a statewide medical association.

Conforms references to certain agencies to current statutory language.

Expands the statistical data required to be collected to include the offense of solicitation of a person under 18 years of age, regardless of whether the offense involved human trafficking.

Authorizes the task force to develop recommendations for addressing the demand for forced labor or services or sexual conduct involving victims of human trafficking.

Continues the task force until September 1, 2017.

Human Trafficking Prevention Training for Personnel of Abortion Facilities—H.B. 416
by Representative Riddle et al.—Senate Sponsor: Senators Campbell and Creighton

Interested parties assert that victims of human trafficking access health care services at various points of the state’s health care system and often visit abortion facilities accompanied by a trafficker or pimp. The parties also assert that these victims sometimes seek an abortion when forced by a trafficker. Concerns have been raised that these women can slip through the system unnoticed because abortion facility workers do not know how to identify trafficked women and consequently miss an opportunity to rescue them. H.B. 416 seeks to equip abortion facility workers with the training to identify human trafficking victims. This bill:

Provides that the bill applies to each person who is employed by, volunteers at, or performs services under contract with an abortion facility or an ambulatory surgical center that performs more than 50 abortions in any 12-month period and has direct contact with patients of the facility.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to require by rule a person to whom the bill applies to complete within a reasonable time after beginning work at the facility a training program to identify and assist victims of human trafficking.

Requires that the training program use the standardized curriculum created by the human trafficking prevention task force.

Requires the Department of State Health Services (DSHS) to make available to each facility to which the bill applies the training program required by this bill.

Requires the executive commissioner to adopt the rules required by this bill not later than December 1, 2015.

Provides that a person to whom this bill applies who is hired, begins volunteering, or begins providing services under contract before September 1, 2015, is not required to comply with the provisions of this bill before September 1, 2016.
Emergency Possession of Child Victims of Trafficking—H.B. 418
by Representative Wu et al.—Senate Sponsor: Senator Huffman

Currently, emergency possession of a child is authorized without a court order in certain limited situations, including situations involving an immediate danger to the physical health and safety of a child, the sexual abuse of a child, or a danger to a child because the child's parent is under the influence of illegal drugs. Concerned parties assert that this authority does not include a situation involving a child who is a victim of human trafficking. Noting that child victims of human trafficking or sex trafficking are frequently conditioned by their handlers to run away from police officers or child protective services workers, if given the opportunity, concerned parties assert that there is a need for police officers and child protective services workers to have the authority to act quickly in a situation involving a child who is a victim of human trafficking in order to provide the child with a safe refuge and specialized services. H.B. 418 seeks to better protect the health and safety of child victims of human trafficking. This bill:

Authorizes the commissioners court of a county or governing body of a municipality to contract with a childplacing agency to verify a secure agency foster home or secure agency foster group home to provide a safe and therapeutic environment tailored to the needs of children who are victims of trafficking.

Prohibits a child-placing agency from verifying a secure agency foster home or secure agency foster group home to provide services unless the child-placing agency holds an appropriate child-care services license that authorizes the agency to provide services to victims of trafficking in accordance with Department of Family and Protective Services (DFPS) standards for child-placing agencies.

Requires a verified secure agency foster home or secure agency foster group home to provide the following services: mental health and other services specifically designed to assist children who are victims of trafficking or of a continuous trafficking offense, including victim and family counseling, behavioral health care, treatment and intervention for sexual assault, education tailored to the child's needs, life skills training, mentoring, and substance abuse screening and treatment as needed; individualized services based on the trauma endured by a child, as determined through comprehensive assessments of the service needs of the child; 24-hour services; and appropriate security through facility design, hardware, technology, and staffing.

Authorizes a court in an emergency, initial, or full adversary hearing conducted in a child protection suit to order that the child who is the subject of the hearing be placed in a verified secure agency foster home or secure agency foster group home if the court finds that the placement is in the best interest of the child and that the child's physical health or safety is in danger because the child has been recruited, harbored, transported, provided, or obtained for forced labor or commercial sexual activity, including any child subjected to an act that constitutes trafficking or a continuous trafficking offense.

Expands the conditions under which an authorized representative of DFPS, a law enforcement officer, or a juvenile probation officer may take possession of a child without a court order to include personal knowledge of facts, or information furnished by another that has been corroborated by personal knowledge of facts, that would lead a person of ordinary prudence and caution to believe that the child has been the victim of trafficking or of a continuous trafficking offense.

Excepts a court from the requirement to order the return of the child at the initial hearing regarding a child taken into possession without a court order by a governmental entity if, among other conditions, the court is satisfied that the evidence shows that the child has been the victim of trafficking or of a continuous
trafficking offense and that there is a substantial risk that the child will be the victim of trafficking in the future.

Excepts a court from the requirement to order the return of the child to the appropriate person entitled to possession of the child at the conclusion of a full adversary hearing if, among other conditions, the court finds evidence sufficient to satisfy a person of ordinary prudence and caution that there was a danger that the child would be a victim of trafficking or of a continuous trafficking offense which was caused by an act or failure to act of the person entitled to possession.

Requires, not later than May 1, 2016, the executive commissioner of the Health and Human Services Commission (HHSC) to adopt any standards and DFPS to establish the verification procedures necessary to implement the changes in law made by the bill.

**Imposing Civil Liability on Entities Engaging in Human Trafficking—H.B. 968**

*by Representative James White—Senate Sponsor: Senator Garcia*

Texas currently provides a civil cause of action for victims of human trafficking. However, the statutory language provides only for the right to sue a corporate entity that has directly engaged in the trafficking of an individual, not the owner or a shareholder of that corporate entity. Often such corporations are shells created by the traffickers for the transfer and exploitation of trafficking victims. These corporations have little or no assets, with all profits and proceeds of the illegal operation being transferred to the owner or stakeholders. When a trafficker's shell business is targeted by law enforcement, the trafficker often closes the targeted business and reopens at a different location under another corporate identity. Rescued victims seeking restitution through current civil litigation options face little likelihood of collecting any judgment.

This bill:

Imposes joint and several liability on a shareholder or member of a legal entity that engaged in the trafficking of persons for damages arising from the trafficking of a person if the person demonstrates that the shareholder or member:

- caused the legal entity to be used for the purpose of trafficking the person; and
- trafficked the person for the direct personal benefit of the shareholder or member.

**General Residential Operation for Victims of Trafficking—H.B. 2070**

*by Representatives Senfronia Thompson and Guillen—Senate Sponsor: Senator Rodriguez*

In 2014, calls from Texas accounted for almost 10 percent of all calls received by the National Human Trafficking Resource Center. It is estimated that up to 200 minors per day are being sexually exploited through the Internet and online escort services. The lack of resources and victim services with respect to human trafficking victims is well-documented; in recent years, general residential operations such as foster group or family homes have opened specifically to address these victims' needs.

Currently, before any general residential operation may be opened in counties having 300,000 residents or less, it must disclose its location through a public notice and in a public hearing. This requirement includes...
those entities that focus on serving child victims of human trafficking victims, known as "safe houses." This bill:

Requires the Department of Family and Protective Services (DFPS), in order to protect the safety and well-being of residents and employees of a general residential operation that provides comprehensive residential services to children who are victims of trafficking, to waive the notice and hearing requirements imposed under Section 42.0461, Human Resources Code, for an applicant who submits to DFPS an application to provide trafficking victim services at the applicant's general residential operation.

Amends Section 42.054, Human Resources Code, relating to fees associated with the filing of applications.

Requires the executive commissioner of DSHS by rule to adopt a general enforcement policy that describes DFPS's approach to enforcement of the bill.

Requires DFPS, as part of the enforcement policy, to develop and implement a methodology for determining the appropriate disciplinary action to take against a person who violates this chapter or DFPS rule.

 Requires that the methodology provide guidance on when to use each of the available tools of enforcement, including technical assistance, voluntary plans of action, evaluation, probation, suspension or revocation of a license or registration, denial of a license or registration, administrative penalties, and emergency suspension.

Requires the methodology to allow DFPS to consider the circumstances of a particular case, including the nature and seriousness of the violation, history of previous violations, and aggravating and mitigating factors, in determining the appropriate disciplinary action.

Requires DFPS to make the methodology available to the public, including by posting the methodology on the DFPS Internet website.

Authorizes DFPS to impose an administrative penalty without first imposing a nonmonetary administrative sanction for violating a minimum standard applicable to a facility or family home that is determined by DFPS to be a high-risk standard, including background check standards, safety hazard standards, and supervision standards.

Authorizes DFPS, after notice and opportunity for a hearing, to issue a cease and desist order prohibiting the person from operating the facility or home if it appears to DFPS that a person who is not licensed, certified, registered, or listed is operating a child-care facility or family home and provides that a violation of an order constitutes grounds for imposing an administrative penalty.

Order of Nondisclosure for Victims of Human Trafficking—H.B. 2286
by Representative Parker et al.—Senate Sponsor: Senator Burton et al.

Prior convictions of prostitution charges for victims of human trafficking often stand in the way of a former human trafficking victim obtaining a stable living environment, staying employed in a desirable field, obtaining certain professional licenses, pursuing higher education, and undertaking other pursuits.
Recognizing the adversity such charges can cause for former victims of human trafficking, certain states have begun creating pathways for former human trafficking victims to vacate the prostitution convictions accrued while a victim. This bill:

Amends the Business and Commerce Code, Occupations Code, and Government Code to authorize a defendant convicted of prostitution and who successfully completes a period of deferred adjudication or community supervision to petition the court for an order of nondisclosure on the grounds that the person committed the offense solely as a victim of trafficking.

Authorizes the court to issue an order prohibiting criminal justice agencies from disclosing information to the public about the conviction and amends provisions regarding obtaining and complying with an order of nondisclosure to include convictions within this category.

Amends the Government Code regarding the procedure for a victim of trafficking that is convicted of prostitution to petition the court for an order of nondisclosure.

Provides for notice to the state and a hearing and determination by the court. Provides that such relief is only available after the conviction is set aside.

Human Trafficking Prevention Month—H.B. 2290
by Representative Parker et al.—Senate Sponsor: Senator Huffman

The month of January was recently designated by presidential proclamation as National Slavery and Human Trafficking Prevention Month. This designation has aided in spreading public awareness and educating individuals on how to avoid becoming a victim of human trafficking. Interested parties recognize a benefit to making a similar designation at the state level. This bill:
Amends the Government Code to designate January as Human Trafficking Prevention Month to increase awareness of human trafficking in an effort to encourage people to alert authorities to any suspected incidents involving human trafficking.
Provides that Human Trafficking Prevention Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of human trafficking.

Task Force Regarding Domestic Violence and Human Trafficking—H.B. 2455
by Representative Burkett et al.—Senate Sponsor: Senator Rodriguez

The actual frequency of crimes concerning family violence, sexual assault, stalking, and human trafficking are unclear, because state and local agencies across Texas conduct data collection and reporting in widely varying ways. In addition, responsibility for capturing this data is split across numerous state agencies. The resulting inconsistency yields inaccurate numbers, making it more difficult for the state to address crime and protect victims efficiently and effectively. This bill:

Establishes a task force to promote uniformity in the collection and reporting of information relating to family violence, sexual assault, stalking, and human trafficking.

Sets forth the membership of the task force.
Provides that members of the task force serve without compensation or reimbursement for expenses.

Requires the task force to:
- solicit and receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations; and
- develop policy recommendations and best practices guidelines for the uniform collection and reporting of information relating to family violence, sexual assault, stalking, human trafficking; and the implementation of dating violence training and awareness education in public schools.

Requires the task force to examine best practices regarding uniform data collection and reporting.

Requires the task force, not later than September 1, 2016, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate standing committees of the legislature a report that includes the findings and recommendations of the task force.

Requires the Office of Court Administration of the Texas Judicial System (OCA) to provide reasonably necessary administrative and technical support for the activities of the task force and to seek the assistance of the task force before making any recommendation as a result of the work done by the task force.

Provides that the task force is abolished on September 1, 2017.

**Human Trafficking Prevention Business Partnership—H.B. 2511**

by Representatives Senfronia Thompson and Guillen—Senate Sponsor: Senator Huffman

Many goods across the world are produced through child labor and forced labor. Interested parties contend that such labor taints the supply of goods produced and consumed in Texas and that businesses should be proactive in ensuring that labor trafficking does not disrupt the production of goods.

It has also been observed that businesses can play a role in addressing sex trafficking, by promoting awareness and training to reduce incidences of this criminal activity on their premises, which may unintentionally serve as profitable venues for sex traffickers. This bill:

Requires the secretary of state to establish and implement a human trafficking prevention business partnership to engage participating corporations and other private entities in voluntary efforts to prevent and combat human trafficking.

Provides that any corporation or private entity that participates in the partnership must adopt a zero tolerance policy toward human trafficking; participate in public awareness and education campaigns; enhance awareness of and encourage participation in the partnership; and share with the secretary of state effective practices in combatting human trafficking.
Redesignation of Certain Prostitution Prevention Programs—S.B. 536

by Senator Whitmire—House Sponsor: Representative Senfronia Thompson

S.B. 484 (Whitmire, West; SP: Sylvester Turner), 83rd Legislature, Regular Session, 2013, added Chapter 169A (Prostitution Prevention Program) to the Health and Safety Code. This new chapter provided for the establishment of prostitution prevention programs by counties or municipalities, authorizing persons charged with prostitution to be diverted from the criminal justice system to specialty courts offering treatment programs, counseling, and services. Most individuals associated with the commercial sex trade are victims in need of assistance and guidance. This bill:

Transfers the current prostitution prevention program from the Health and Safety Code to a new Chapter 126 (Commercially Sexually Exploited Persons Court Program), under Subtitle K (Specialty Courts), Government Code.

Replaces the term "prostitution prevention program" with "commercially sexually exploited persons court program" throughout the statutes.

 Strikes provisions regarding legislative oversight of prostitution prevention programs.

Authorizes a county to apply to the criminal justice division of the governor's office for a grant for the establishment or operation of a commercially sexually exploited persons court program.
Sealing Certain Juvenile Justice Records—H.B. 263
by Representatives Miles and Guillen—Senate Sponsor: Senator Huffman

Currently, a person's juvenile records relating to delinquent conduct may be sealed under certain conditions. Interested parties assert that many persons are unaware of their eligibility to apply to have their records sealed and consequently do not go through the application process. As a result, access to these records by potential employers, schools, and landlords can affect the person's employment, educational, and other opportunities. This bill:

Requires that a juvenile court, except as otherwise provided, order the sealing of the records in the case of a person who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision, or a person taken into custody to determine whether the person engaged in delinquent conduct or conduct indicating a need for supervision, if certain statutory criteria are met.

Strikes all references regarding an application by the person to seal such records.

Requires that the court shall give the prosecuting attorney for the juvenile court reasonable notice before a person's records become eligible for sealing.

Authorizes the court to hold a hearing before sealing the person's records if the prosecuting attorney requests a hearing.

Advisory Committee to Recommend Revisions to Juvenile Records Laws—H.B. 431
by Representatives James White and Miles—Senate Sponsor: Senator Rodriguez

Chapter 58 of the Family Code provides confidentiality for juvenile records. Keeping these records confidential encourages rehabilitation. A criminal record can subsequently affect access to employment, housing, and other opportunities. However, over time, Chapter 58 has grown more complex and some argue that it no longer provides necessary confidentiality. S.B. 1769, 83rd Legislature, Regular Session, 2013, required the Texas Juvenile Justice Board (TJJD) to create an advisory committee to study the fingerprinting of juveniles. This committee has recommended the formation of a practitioner workgroup to conduct a comprehensive examination of Chapter 58. This bill:

Requires TJJD, not later than December 1, 2015, to appoint an advisory committee (committee) to develop a plan for studying, reorganizing, and comprehensively revising Chapter 58 and any other relevant laws pertaining to juvenile records.

Requires TJJD, in making appointments to the committee, to include representatives of certain interested parties.

Requires the committee, not later than November 1, 2016, to submit its recommendations and plan for revisions to state law to the legislature and TJJD.

Authorizes the committee to submit preliminary and follow-up recommendations at any time.
Provides that committee members serve without compensation and are not entitled to reimbursement for expenses.

Abolishes the committee effective December 31, 2018.

Eligibility of Children in TJJD Under Certain Health Plans—H.B. 839
by Representatives Naishtat and Collier—Senate Sponsor: Senators Rodriguez and Garcia

Juveniles committed to a juvenile justice detention facility have greater physical and mental needs than juveniles in the general population, and mental health needs are a main driver of a juvenile offender's initial entry into the juvenile justice system and recidivism. A significant number of juveniles committed to the Texas Juvenile Justice Department (TJJD) have a suspected or confirmed substance abuse issue or mental health issue.

According to reports, Texas terminates, rather than suspends, a juvenile's Medicaid benefits when a juvenile enters a detention facility, causing an interruption in the reinstatement of benefits after the juvenile is released from detention. This interruption can result in an inability to obtain necessary medical care. Although state agencies have worked to address delayed Medicaid re-enrollment, juvenile probation departments across Texas report that challenges remain with re-enrollment, sometimes resulting in juveniles going without Medicaid benefits for up to a month. This bill:

Requires the Health and Human Services Commission (HHSC), to the extent allowed under federal law, if a child is confined in a juvenile facility, to suspend the child's eligibility for health benefits coverage under the child health plan during the period the child is confined in the facility.

Requires HHSC, not later than 48 hours after HHSC is notified of the release from a juvenile facility of a child whose eligibility for health benefits coverage under the child health plan has been suspended, to reinstate the child's eligibility.

Provides that, following the reinstatement, the child remains eligible until the expiration of the period for which the child was certified as eligible, excluding the period during which the child's eligibility was suspended.

Defines "custodian," "guardian," and "juvenile facility."

Authorizes a juvenile facility to notify HHSC on the placement in the facility of a child who is enrolled in the child health plan or who is receiving medical assistance benefits.

Requires a juvenile facility, if the juvenile facility chooses to provide the notice authorized by the bill, to provide the notice electronically or by other appropriate means as soon as possible, but not later than the 30th day after the date of the child's placement.

Authorizes a juvenile facility to notify HHSC of the release of a child who, immediately before the child's placement in the facility, was enrolled in the child health plan or receiving medical assistance benefits.
Requires a juvenile facility, if the juvenile facility chooses to provide the notice authorized by the bill, to provide the notice electronically or by other appropriate means not later than 48 hours after the child's release from the facility.

Requires a juvenile facility, if the juvenile facility chooses to provide the notice authorized by the bill, at the time of the child's release, to provide the child's guardian or custodian, as appropriate, with a written copy of the notice and a telephone number at which HHSC may be contacted regarding confirmation of or assistance relating to reinstatement of the child's eligibility for health benefits coverage under the child health plan or for medical assistance benefits.

Requires HHSC to establish a means by which a juvenile facility, or an employee of the facility, may determine whether a child confined in the facility is or was, as appropriate, enrolled in the child health plan or receiving medical assistance benefits for purposes of the bill.

Provides that a juvenile facility, or an employee of the facility, is not liable in a civil action for damages resulting from a failure to comply with the bill.

Provides that the bill applies to a child whose period of placement in a juvenile facility begins on or after the effective date of the bill, regardless of the date the child was determined eligible for child health plan coverage or medical assistance.

Provides that the bill applies to the release of a child from a juvenile facility that occurs on or after the effective date of the bill, regardless of the date the child was initially placed in the facility.

**Task Force on Juvenile Sex Offenders—H.B. 1144**

*by Representative Dukes—Senate Sponsor: Senator Hinojosa*

The arrest of a juvenile for a sex offense is often a one-time event. Many juvenile sex offenders were sexually or physically abused as children; therefore it is important to view a juvenile sex offender differently than an adult sex offender. Interested parties have noted inconsistencies in how juveniles accused of sexual offenses are adjudicated and prosecuted for their crimes and in the support services provided to juvenile sex offenders. This bill:

Provides that the Task Force on Improving Outcomes for Juveniles Adjudicated of Sexual Offenses (task force) is established. Provides that the purpose of the task force is to make policy recommendations to improve the outcomes for juvenile sex offenders after studying certain criteria.

Sets forth the composition of the task force. Requires the governor to designate a member of the task force to serve as presiding officer. Authorizes the presiding officer to designate additional experts to serve as advisors to the task force. Requires a person designated to make an appointment of a member of the task force to make the appointment not later than the 60th day after the effective date of this Act. Requires the designated person to fill a vacancy in the task force or a vacancy in the position of presiding officer of the task force by the appointment of another person with the same qualifications as the original appointee.
Requires the presiding officer to call the initial meeting of the task force on or before December 1, 2015. Requires the task force to meet at the times and places that the presiding officer determines are appropriate.

Provides that a member of the task force is not entitled to compensation but may receive reimbursement for the member’s actual and necessary expenses incurred in attending meetings of the task force and performing other official duties authorized by the presiding officer of the task force, if funding is available.

Authorizes the task force to request meeting facilities, data, clerical assistance, and other assistance from any department, agency, institution, office, or political subdivision of this state.

Authorizes the task force to consult with any relevant experts and stakeholders.

Prohibits state funds from being appropriated for purposes of the task force. Authorizes the task force to apply for, receive, and accept grants of funds or other contributions as appropriate to assist in the performance of its duties. Authorizes the task force to contract for consultants or technical assistance.

Provides that the task force is not subject to Chapter 2110 (State Agency Advisory Committees), Government Code.

Requires the task force to: solicit and review information and hear testimony relevant to the purposes of the task force from individuals, state and local agencies, community-based organizations, and other public and private organizations; review the adjudication and disposition processes and programs for juvenile sex offenders; review juvenile sex offender registration; review counseling, mental health, or other services provided to juvenile sex offenders; and review statistical information regarding the frequency of juvenile sex offenders being victims of abuse or neglect or witnesses to family violence. Requires the task force to adopt rules necessary to fulfill the task force’s duties under this Act.

Requires the task force to prepare a report containing specified criteria. Requires the task force, not later than December 1, 2016, to deliver the report of the task force’s findings and recommendations to specified persons.

Provides that the task force is abolished and this Act expires September 1, 2017.

Confidentiality of Personal Information of TJJD Employees—H.B. 1311

by Representative McClendon—Senate Sponsor: Senator Menéndez

Employees of the Texas Juvenile Justice Department (TJJD) often deal with emotional and potentially dangerous family and community situations, and, as a result, some individuals served by a TJJD employee may harbor resentment aimed at the employees. This bill:

Clarifies that confidentiality protections under Section 552.117 (Exception: Confidentiality of Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information) and Section 552.1175 (Confidentiality of Certain Personal Identifying Information of Peace Officers, County Jailers, Security Officers, Employees of Certain Criminal or Juvenile Justice Agencies or Offices, and Federal and State Judges), Government Code, regarding certain personal information extend to a current or former
juvenile probation or supervision officer certified by TJJD or a current or former employee of a juvenile justice program or facility, regardless of whether the individual complies with Section 552.024 (Electing to Disclose Address and Telephone Number) or Section 552.1175.

Expands Section 25.025 (Confidentiality of Certain Home Address Information), Tax Code, to include a current or former:
- TJJD employee;
- juvenile probation or supervision officer certified by TJJD; and
- employee of a juvenile justice program or facility.

Publicación de registros del sistema de justicia juvenil — H.B. 1491

by Representative McClendon — Senate Sponsor: Senator Menéndez

Certains websites d'un profit ont été activement collectant des photos d'arrestations et des dossiers criminels en bloc et les ont ensuite postés en ligne. Ces photos et dossiers peuvent inclure des informations identifiant personnelles ou des informations pré-dispositions d'arrestation et peuvent ne jamais être mises à jour pour l'exactitude ou la completez. Depending on the website, photos or records may be displayed along with fallacious or defamatory statements. Children deserve a higher level of protection with regard to these sites than Texas law currently affords. It is often difficult for an affected person to remove personal information from the site, and some websites charge high fees for removal. A child is unlikely to be able to afford such fees or to have the capacity to pursue court remedies. H.B. 1491 seeks to minimize or eliminate the potential impact of this practice on children. This bill:

Define "confidential criminal record information of a child," "confidential juvenile record information," "information service," "interactive computer service," and "telecommunications provider."

Provides that Section 109.002 (Applicability of Chapter), Chapter 1200, Business & Commerce Code, applies to a business entity that publishes confidential juvenile record information or confidential criminal record information of a child in a manner not permitted by Chapter 58 (Records; Juvenile Justice Information System), Family Code, Chapter 45 (Justice and Municipal Courts), Code of Criminal Procedure, or other law, regardless of the source of the information, or whether the business entity charges a fee for access to or removal or correction of the information. Provides that Chapter 109 (Business Entities Engaged in Publication of Criminal Record Information) does not apply to: a statewide juvenile information and case management system authorized by Subchapter E (Statewide Juvenile Information and Case Management System), Chapter 58, Family Code; a publication of general circulation or an Internet website related to such a publication that contains news or other information, including a magazine, periodical newsletter, newspaper, pamphlet, or report; or a radio or television station that holds a license issued by the Federal Communications Commission; an entity that provides an information service or that is an interactive computer service; or a telecommunications provider.

Prohibits a business entity from publishing confidential juvenile record information or confidential criminal record information of a child.
Requires the business entity, if a business entity receives a written notice by any person that the business entity is publishing information in violation of this section, to immediately remove the information from the website or publication.

Authorizes the business entity, if the business entity confirms that the information is not confidential juvenile record information or confidential criminal record information of a child and is not otherwise prohibited from publication, to republish the information.

Provides that this section does not entitle a business entity to access confidential juvenile record information or confidential criminal record information of a child.

Provides that a business entity does not violate this chapter if the business entity publishes confidential juvenile record information or confidential criminal record information of a child and: the child who is the subject of the records gives written consent to the publication on or after the 18th birthday of the child; the publication of the information is authorized or required by other law; or the business entity is an interactive computer service, as defined by 47 U.S.C. Section 230, and publishes material provided by another person.

Prohibits a business entity from publishing any information with respect to which the business entity has knowledge or has received notice that the information is confidential juvenile record information or confidential criminal record information of a child. Provides that a business entity that publishes information in violation of this section is liable to the individual who is the subject of the information in an amount not to exceed $500 for each separate violation and, in the case of a continuing violation, an amount not to exceed $500 for each subsequent day on which the violation occurs.

Provides that a business entity that publishes criminal record information, confidential juvenile record information, or confidential criminal record information of a child is liable to the state for a civil penalty in an amount not to exceed $500 for each separate violation and, in the case of a continuing violation, an amount not to exceed $500 for each subsequent day on which the violation occurs. Provides that each record constitutes a separate violation.

Requires that an action be brought in a district court: in Travis County if the action is brought by the attorney general; in the county in which the person who is the subject of the criminal record information, confidential juvenile record information, or confidential criminal record information of a child resides; or in the county in which the business entity is located.

Corrections in Statutes to References to TYC and TJPC—H.B. 1549

by Representative McClendon—Senate Sponsor: Senator Menéndez

S.B. 653, Acts of the 82nd Legislature, Regular Session, 2011, abolished the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC), transferred the powers and duties of those former agencies to the Texas Juvenile Justice Department (TJJD), and established that a reference in law to those former agencies means TJJD. However, that bill did not replace all of the references in numerous statutes to the former agencies. The periodic correction of these references since the passage of the bill has been piecemeal. H.B. 1549 seeks to make comprehensive and consistent corrections to the law relating to TJJD. This bill:
Amends certain sections of relevant Texas statutes to change references to TYC to TJJD and references to TJPC to TJJD, and references to department to the Department of Criminal Justice.

**Training Requirements for Juvenile Correctional Officers—H.B. 2372**

*by Representative Dutton—Senate Sponsor: Senator Whitmire*

The Texas Juvenile Justice Department (department) is currently required to provide training to juvenile correctional officers, with a certain amount of training to be completed before an officer independently commences the officer's duties. Interested parties have recommended that the training be updated to better align with a real-life facility environment and more appropriately address some of the questions and concerns an officer will likely encounter on a day-to-day basis. This bill:

Requires the department to provide competency-based training to each juvenile correctional officer employed by the department, which must include on-the-job training. Requires each officer to complete at least 300 hours of training in the officer's first year of employment, with at least 240 hours of training before the officer independently commences the officer's duties at the facility. Requires the officer to demonstrate competency in the trained subjects as required by the department.

**Truancy Courts and the Judicial Donation Trust Fund—H.B. 2398**

*by Representatives James White and Reynolds—Senate Sponsor: Senator Whitmire*

Referral of students for failure to attend school to adult courts has been an ongoing concern in Texas. S.B. 1234, 83rd Legislature, Regular Session, 2013, amended state law relating to the prevention of truancy and the offense of failure to attend school, but it was vetoed by the governor. Although truancy is currently a Class C misdemeanor, in some cases, a student may not be attending school simply because of a financial constraint that prevents the student from making essential purchases, such as a pair of shoes or a backpack. Interested parties have expressed concern that children are unnecessarily being exposed to the criminal justice system. This bill:

Repeals Section 25.094 (Failure to Attend School), Education Code and makes conforming changes throughout the statutes.

Adds Chapter 65 (Truancy Court Proceedings) to the Family Code:

- Provides that the purpose of this chapter is to encourage school attendance by creating simple civil judicial procedures through which children are held accountable for excessive school absences, and that that the best interest of the child is the primary consideration in adjudicating truant conduct of the child.
- Provides that a child engages in truant conduct if the child is required to attend school and fails to attend school on 10 or more days or parts of days within a six-month period in the same school year.
- Provides that truant conduct may be prosecuted only as a civil case in a truancy court.
- Grants a truancy court exclusive original jurisdiction over cases involving allegations of truant conduct.
- Grants a child alleged to have engaged in truant conduct the right to a trial before a jury of six
Provides that there is no jury fee for a trial under this chapter.

Sets forth when a right granted to a child is waived in proceedings under this chapter.

Provides that an adjudication of a child as having engaged in truant conduct is not a conviction of crime and that an order of adjudication does not impose any civil disability.

Prohibits the adjudication of a child as having engaged in truant conduct from being used in any subsequent court proceedings, other than for the purposes of determining an appropriate remedial action or in an appeal.

Authorizes the Supreme Court of Texas to promulgate rules applicable to proceedings under this chapter.

Sets forth procedures regarding a truancy court proceeding.

Authorizes the truancy court to appoint a guardian ad litem to protect the interests of the child. Prohibits a law enforcement officer, probation officer, or other employee of the truancy court from appointment as a guardian ad litem.

Authorizes the truancy court to order a child's parent or other person responsible to support the child to reimburse the cost of the attorney or guardian ad litem if responsible person has sufficient financial resources to offset the cost of the guardian ad litem.

Requires the truancy court, if party makes a motion requesting that a petition be dismissed because the child has a mental illness, to temporarily stay the proceedings to determine whether probable cause exists to believe the child has a mental illness, and if it is so determined, to dismiss the truancy petition.

Requires the truancy court, if the court or jury finds that the child did engage in truant conduct, to order that the remedies the court finds appropriate.

Requires the truancy court, after pronouncing the court's remedial actions, to advise the child and the child's parent, guardian, or guardian ad litem of the child's right to appeal and the procedures for the sealing of the child's records.

Authorizes a truancy court to order a child who has been found to have engaged in truant conduct, as well as the child's parent or other person responsible for the child, to perform certain actions set forth.

Prohibits a truancy court from ordering a child to attend a juvenile justice alternative education program, a boot camp, or a for-profit truancy class or perform more than 16 hours of community service per week.

Authorizes the truancy court to may order the Department of Public Safety of the State of Texas (DPS) to suspend the driver's license or permit of a child or to deny the issuance of a license or permit to the child.

Imposes a truancy court cost of $50 on a child, parent, or other person, if financially able to pay, and requires that the fee be deposited in a special account to be used only to offset the cost of the operations of the truancy court.

Sets forth the proceedings for a hearing to modify any remedy or for a motion for new trial. Provides that an appeal from a truancy court is to a juvenile court and sets forth the appellate procedure. Provides that the case must be tried de novo in the juvenile court and an appeal serves to vacate the order of the truancy court.

Authorizes a child who has been found to have engaged in truant conduct to apply, on or after the child's 18th birthday, to the truancy court to seal the records relating to the allegation and finding of truant conduct. Sets forth the contents of such application.
• Requires the truancy court to order that the records be sealed after determining the child complied with the remedies ordered by the court in the case.
• Requires a truancy court, clerk of the court, truant conduct prosecutor, or school district to reply to a request for information concerning a child's sealed truant conduct case that no record exists with respect to the child.
• Provides that a person whose records have been sealed is not required in any proceeding or in any application for employment, information, or licensing to state that the person has been the subject of a proceeding under this chapter.
• Authorizes the truancy court, on or after the fifth anniversary of a child's 16th birthday, on the motion of the child or on the court's own motion, to order the destruction of the child's records that have been sealed if the child has not been convicted of a felony.
• Lists the persons or entities entitled to disclosure of records and files created under this chapter.
• Authorizes a truancy court, if a child fails to obey an order issued by the court and after providing notice and an opportunity for a hearing, to hold the child in contempt of court and order that the child pay a fine not to exceed $100 or that DPS suspend or deny the issuance of the child's driver's license or permit until the child fully complies with the court's orders.
• Provides that if a child has failed to obey an order or has been found in direct contempt of court on two or more previous occasions, the truancy court, after providing notice and an opportunity for a hearing, may refer the child to the juvenile probation department (JPD) for truancy intervention, unless the child failed to obey the truancy court order or was in direct contempt of court while 17 years of age or older.
• Sets forth the procedure for referral of the child to JPD. Authorizes JPD to offer further remedies or to refer the child to a juvenile court.
• Prohibits a truancy court from ordering the confinement of a child for the child's failure to obey an order of the court. Sets forth the proceedings in juvenile court following referral by JPD.
• Sets forth the procedure for a truancy court to enforce an order by contempt against a parent or other person in contempt of court, other than the child. Provides that the penalty for a finding of contempt against such parent or person is fine in an amount not to exceed $100.
• Provides that, in addition to the assessment of a fine, direct contempt of the truancy court by a parent or person other than the child is punishable by confinement in jail for a maximum of three days, a maximum of 40 hours of community service, or both.

Authorizes a county, justice, or municipal court, at the court's discretion, to dismiss a charge against a defendant alleging the defendant committed an offense under Section 25.093 (Parent Contributing to Nonattendance), Education Code, if the court finds that a dismissal would be in the interest of justice because there is a low likelihood of recidivism by the defendant or sufficient justification exists for the failure to attend school.

Requires the court, regardless of whether the individual has filed a petition for expunction, to order the conviction, complaints, and all other documents relating to the offense to be expunged from the individual's record, and that after entry of the expunction order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose.
Authorizes an appropriate governmental entity, on approval of the commissioners court, to agree with any appropriate governmental entity to jointly contribute to the costs of a case manager employed by a governmental entity.

Provides that if a person voluntarily enrolls in school or voluntarily attends school after the person's 19th birthday, a school district, after the third unexcused absence of such a person, must issue a warning letter stating the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

Authorizes a school district, as an alternative to revoking the person's enrollment, to impose a behavior improvement plan.

Provides that a peace officer serving as an attendance officer may refer a student to a truancy court, rather than juvenile court or filing a complaint against the student in a county, justice, or municipal court, and is prohibited from taking a student into custody.

Requires a school district to offer additional counseling to a student and prohibits the district from referring the student to truancy court if the student's truancy is the result of pregnancy, being in the state foster program, homelessness, or being the principal income earner for the student's family.

Requires a school district to take certain actions as a truancy prevention measure, including the development of a behavior improvement plan or school-based community service or referring the student to in-school or out-of-school services.

Requires a school district, except as provided, to employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures, or designate an existing district employee or juvenile case manager to implement the truancy prevention measures.

Requires the Texas education Agency to adopt rules creating minimum standards for truancy prevention measures; establishing a set of best practices for truancy prevention measures; and providing for sanctions for a school district found to be not in compliance with this section.

Provides for the creation of a committee to recommend a uniform process for filing truancy cases with truancy courts in certain counties that fail to adopt a uniform truancy policy not later than January 1, 2016.

Provides that a parent who, with criminal negligence, fails to require the child to attend school commits an offense that punishable by fine only, in an amount not to exceed $100 for a first offense and up to $500 for a fifth or subsequent offense.

Authorizes a school district, if a student fails to attend school without excuse, to file a complaint against the student's parent in a county, justice, or municipal court for an offense if the school district provides evidence of the parent's criminal negligence.

Authorizes a school district to delay a referral of, or to not refer, a student for truant conduct, if the school district is applying truancy prevention measures to the student and determines that the truancy prevention
measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

Authorizes the governing body of a municipality or the commissioners court of a county to establish a judicial donation trust fund as a separate account to be used to assist needy children or families who appear before a county, justice, or municipal court for a criminal offense or truant conduct, as applicable, by providing money for resources and services that eliminate barriers to school attendance or that seek to prevent criminal behavior. Sets forth the funding mechanism for and procedures relating to such a fund.

Requires truancy courts to report certain information regarding cases related to truant conduct to the Office of Court Administration of the Texas Judicial System.

**Use of the Juvenile Case Manager Fund—H.B. 2945**

by Representative Alonzo—Senate Sponsor: Senator Hancock

Current law restricts the use of a juvenile case manager fund (fund) to certain necessary expenses relating to the position of a juvenile case manager (JCM). While cities and counties currently use the majority of money in a fund in accordance with the law, a fund balance often remains after the authorized expenditures are made. This bill:

Authorizes a JCM to use money remaining in the fund, on approval by the employing court, to implement programs directly related to the duties of the JCM, including juvenile alcohol and substance abuse programs and any other projects designed to prevent or reduce the number of juvenile referrals to the court.

**Redacting Certain Information From Juvenile Court Records—H.B. 4003**

by Representative Laubenberg—Senate Sponsor: Senator Van Taylor

The Juvenile Justice Information System consists of information relating to delinquent conduct committed by a juvenile offender. Records required to be retained include information relating to the prosecution of the juvenile offender and the conduct for which the juvenile offender was taken into custody, detained, or referred, including level and degree of the alleged offense. Often, in the prosecution or description of the offense, information regarding the victim of the juvenile's delinquent conduct is disclosed. Interested parties have stated that juvenile victims of another juvenile's delinquent conduct should not be subject to further inconvenience or have information about their victimization subject to public disclosure. This bill:

Requires that the custodian of a juvenile court record or file of a child, before disclosing any record or file as authorized by law, redact any personally identifiable information about a victim of the delinquent conduct or conduct indicating a need for supervision if the victim was under 18 years of age on the date the conduct occurred.

Exempts information that is:

- necessary for an agency to provide services to the victim;
- necessary for law enforcement purposes; or
• shared within the statewide juvenile information and case management system.

Procedures for Certain Misdemeanor Offenses Committed by Children—S.B. 108  
by Senator Whitmire—House Sponsor: Representative Senfronia Thompson

S.B. 1114 (Whitmire and West; SP: Herrero) and S.B. 393 (West, et al.; SP: Lewis and Senfronia Thompson), 83rd Legislature, Regular Session, 2013, address the ticketing of students at school, but in slightly different ways. During the interim, there was a series of meetings to consider how these bills were being implemented. This bill:

Provides that the records of a person under 17 years of age relating to a complaint may be expunged if the complaint was dismissed or the person was acquitted of the offense.

Authorizes a justice or municipal court to defer proceedings for up to 180 days against a defendant who is under the age of 18 or enrolled full time in an accredited secondary school in a high school diploma program if the defendant is recommended to attend a teen court program by a school employee and has not successfully completed a teen court program in the year, rather than two years, preceding the date that the alleged offense occurred.

Defines a child under the Education Code as a person who is a student between the ages of 10 and 18 years.

Prohibits a law enforcement officer or school resource officer from issuing a citation to a child who is alleged to have committed a school offense.

Provides that a complaint alleging the commission of an offense may include a recommendation by a school employee that the child attend a teen court program, if the employee believes that attending the program is in the best interest of the child.

Violation of Rights of and Improper Activity With Individuals in Custody—S.B. 183  
by Senators Huffman and Uresti—House Sponsor: Representative James White

Section 39.04 (Violations of the Civil Rights of Person in Custody; Improper Sexual Activity With Person in Custody), Penal Code, penalizes officials and employees of correctional institutions who violate the rights of a person in custody or engage in sexual conduct with a person in custody. However, current law does not penalize employees of contracted juvenile facilities for such offenses. This unintentional oversight in the law means that juvenile offenders in custody have no recourse under current law. This bill:

Expands the list of persons to whom such offenses apply to include an official, employee, and certain other persons working or volunteering at a juvenile facility and enhances the penalty for improper sexual activity with an individual placed in a juvenile facility.
Controlled Substance Offenses Committed in a Drug-Free Zone—S.B. 236

by Senator Schwertner—House Sponsor: Representative Farney

Section 481.134 (Drug-Free Zones), Health and Safety Code, provides for enhanced penalties for the sale or possession of Penalty Group 1, 2, 2-A, 3, and 4 drugs within a "drug-free zone." Such zones are in, on, or within a certain statutory distance of specific facilities, such as the premises of an institution of higher learning or of a public or private youth center, a playground, or the premises of a public swimming pool or video arcade facility. In 1997, H.B. 1070, 75th Legislature, Regular Session, removed LSD's Penalty Group 1 classification and created Penalty Group 1-A to permit LSD to be punished on the basis of "abuse units" rather than weight, as Section 481.1121 (Offense: Manufacture or Delivery of Substance in Penalty Group 1-A) and Section 411.1151 (Offense: Possession of Substance in Penalty Group 1-A), Health and Safety Code. However, the legislation creating Penalty Group 1-A did not incorporate this new section of law in the drug-free zones statute, effectively removing LSD from the enhanced penalties under Section 481.134.

This bill:

Enhances the penalty for possession, manufacture, or delivery of Penalty Group 1-A substance in a drug-free zone by adding references to Sections 481.1121 and Section 481.1151 to Section 481.134, Health and Safety Code.

Confidential Information in the Juvenile Justice Information System—S.B. 409

by Senator Rodríguez—House Sponsor: Representative James White

In 1995, the Texas Legislature authorized the fingerprinting of juveniles referred for felony and misdemeanor conduct. Chapter 58 (Records; Juvenile Justice Information System), Family Code, and Chapter 411 (Department of Public Safety of the State of Texas), Government Code, permits the dissemination of this information to criminal justice agencies and other public entities. The personal information of juveniles has long received the protection of confidentiality in order to permit juveniles to pursue lives as law-abiding adults. However, although the dissemination of fingerprints and other confidential information serves an important public safety purpose, it has undermined the expectation of confidentiality. Many who have successfully left the juvenile system behind have faced obstacles to employment, education, and housing. In particular, practitioners in the juvenile system have questioned the wisdom of disseminating information related to unadjudicated misdemeanor conduct.

S.B. 1769, enacted by the 83rd Legislature, Regular Session, 2013, created the Texas Fingerprinting Advisory Committee (TFAC), composed of prosecutors, juvenile system administrators, advocates, and others from across Texas. TFAC was required to study and make recommendations regarding the fingerprinting of juveniles. S.B. 409 reflects TFAC's recommendations. This bill:

Makes changes to the statutory list of the entities to which Department of Public Safety of the State of Texas (DPS) may disseminate juvenile justice system information, including to:

- a criminal justice agency as defined by Section 411.082 (Definitions), Government Code, rather than to a person or entity to which DPS may grant access to adult criminal history records;
- a noncriminal justice agency authorized by federal statute or federal executive order to receive juvenile justice record information;
- a district court exercising jurisdiction over a juvenile; and
• the Department of Family and Protective Services.

Changes references to the Texas Youth Commission and Texas Juvenile Probation Commission to the Texas Juvenile Justice Department.

Authorizes DPS to disseminate information contained in the juvenile justice information system to any noncriminal justice agency or entity that DPS may grant access to adult criminal history record information as provided by Section 411.083 (Dissemination of Criminal History Record Information), Government Code, if the information does not relate to conduct indicating a need for supervision or to delinquent conduct constituting a misdemeanor offense:
• for which a child is on deferred prosecution;
• for which deferred prosecution was successfully completed;
• for which a charge was dropped or not pursued for reasons other than a lack of probable cause;
• for which a charge is pending final adjudication; or
• found by the juvenile court to be "not true."

Appeal of Transfer to Criminal Court in Juvenile Cases—S.B. 888
by Senator Hinojosa—House Sponsor: Representative Sylvester Turner

Under Article 44.47 (Appeal of Transfer From Juvenile Court), Code of Criminal Procedure, juveniles certified as adults cannot appeal their certifications until after they are convicted in adult court. This may result in a youth waiting years for a determination regarding whether their certification to adult court was proper. A recent ruling by the Texas Court of Criminal Appeals found that a juvenile court in Harris County was providing "insufficient evidence" detailing why a youth should stand trial as an adult. Allowing an immediate appeal of a juvenile certification would save the state valuable resources by preventing adult court trials in cases of improper certification. This bill:

Repeals Article 44.47 (Appeal of Transfer from Juvenile Court), Code of Criminal Procedure, and makes conforming changes.

Authorizes an appeal by or on behalf of a child from an order entered respecting transfer of the child for prosecution as an adult.

Provides that the appeal from such an order entered does not stay the criminal proceedings pending the disposition of that appeal.

Provides that an appeal of an order transferring the child to criminal court for prosecution takes precedence over other cases.

Requires the Texas Supreme Court to adopt rules accelerating the disposition by the appellate court and the supreme court of an appeal of an order transferring a child to criminal court for prosecution.
Course Credit and High School Diplomas at TDCJ Facilities—S.B. 1024  
by Senator Seliger—House Sponsor: Representative James White et al.

The Windham School District (WSD) is a publicly funded school district operating schools at Texas Department of Criminal Justice (TDCJ) facilities throughout the state. Under current law, WSD can award a GED, but not a high school diploma. This bill:

Requires a school district to grant credit to a student toward the academic or other course requirements for high school graduation for courses the student successfully completes in WSD educational programs, provided that the completed courses meet certain standards.

Provides that a student may graduate and receive a diploma from WSD if the student successfully completes certain curriculum requirements identified by the State Board of Education and the student complies with Section 39.025 (Secondary-Level Performance Required), Education Code, or curriculum requirements as modified by an individualized education program.

Authorizes a WSD program to issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the State Board of Education but who fails to comply with Section 39.025.

Commitment and Release Under Supervision of Juveniles in Certain Counties—S.B. 1149  
by Senator Watson—House Sponsor: Representative Workman

The 83rd Legislature enacted S.B. 511, which authorized Travis County to commit its juvenile offenders in a local post-adjudication secure correctional facility, instead of a facility operated by the Texas Juvenile Justice Department (TJJD). Pursuant to this bill and a policy adopted by the Travis County Juvenile Board, the Travis County Juvenile Probation Department (TCJPD) began its local commitment program (LCP) on December 1, 2013. The Travis County LCP allows juvenile offenders to remain closer to home and family, which researchers suggest leads to better outcomes. During the course of implementing the LCP, TCJPD identified various gaps in the enabling statute. These gaps are making it difficult for TCJPD to manage local youth in the same manner as TJJD. This bill:

Amends provisions of the Family Code and Government Code regarding the transfer, commitment, or release of a child to include a post-adjudication secure correctional facility.

Provides that after a child has completed the minimum length of stay established in statute, the juvenile board or local juvenile probation department must:

- discharge the child from custody;
- release the child under supervision; or
- extend the child's length of stay in the custody of the juvenile board or local juvenile probation department.

Provides that a child's length of stay may be extended on the basis of clear and convincing evidence that:

- the child is in need of additional rehabilitation from the juvenile board or local juvenile probation department; and
- the post-adjudication secure correctional facility will provide the most suitable environment for that rehabilitation.

Adds Sections 152.00162 through 152.00165 to the Human Resources Code:
- Provides that when a person is committed to a post-adjudication secure correctional facility under a determinate sentence, the juvenile board or local juvenile probation department may not discharge the person from custody.
- Sets forth when a juvenile board or local juvenile probation department must:
  - discharge a person committed for a determinate sentence; or
  - transfer the person to the Texas Department of Criminal Justice (TDCJ) for the completion of the person's sentence.
- Requires the juvenile board or local juvenile probation department to discharge from its custody a person not already discharged on the person's 19th birthday.
- Sets forth information that the juvenile board or local juvenile probation department must submit to TDCJ.
- Sets forth how the person's eligibility for parole and discharge from TDCJ must be determined.
- Requires a juvenile board or local juvenile probation department to accept a child with a mental illness or an intellectual disability who is committed to the custody of the board or department.
- Sets forth when a juvenile board or local juvenile probation department must discharge such a child.
- Sets forth when a child with a mental illness or an intellectual disability who is discharged from the custody of a juvenile board or local juvenile probation department is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments.
- Requires a juvenile board or local juvenile probation department to establish a system that identifies children with mental illnesses or intellectual disabilities who are in the custody of the juvenile board or local juvenile probation department.
- Requires an examination of a child who is identified as having a mental illness before being discharged from the custody of the juvenile board or local juvenile probation department.
- Requires the juvenile board or local juvenile probation department to take certain steps regarding providing such a child with outpatient psychiatric treatment or inpatient psychiatric treatment.
- Requires that a child who is identified as having an intellectual disability and who is discharged from the custody of a juvenile board or local juvenile probation department be referred to intellectual disability services.
- Sets forth the procedure for a hearing and transfer of certain children serving determinate sentences for mental health services.
- Provides that certain children committed to an inpatient mental health facility may not be released from the facility on a pass or furlough.
- Sets forth the procedure when the term of an order committing a child to an inpatient mental health facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered.

Expands the duties of the office of the independent ombudsman to children committed to a post-adjudication secure correctional facility.
Keeping Children Adjudicated as Delinquent Closer to Home—S.B. 1630
by Senator Whitmire—House Sponsor: Representative Sylvester Turner et al.

In January of 2014, the Justice Center of the Council for State Government released a study of Texas youths involved with the juvenile justice system. The study found that juveniles under community-based supervision are far less likely to reoffend than juveniles with very similar profiles who are confined in Texas Juvenile Justice Department (TJJD) facilities. Based on a dataset of 1.3 million individual juvenile case records, the study results show that youths incarcerated in state facilities are 21 percent more likely to be rearrested than those who remain under supervision closer to home in local county programs. Also, when they do reoffend, youths released from state secure facilities are three times more likely to commit a felony than youths under community supervision. This study also revealed that a youth secured at a TJJD facility for an average stay of just over 18 months costs the state $158,000.00, much greater than the cost of supervision on community supervision or community inpatient programs. This bill:

Authorizes a juvenile court, after a disposition hearing held in accordance with Section 54.04 (Disposition Hearing), Family Code, to commit a child who is found to have engaged in delinquent conduct that constitutes a felony offense to the Texas Juvenile Justice Department without a determinate sentence if the court makes a special commitment finding that the child has behavioral health or other special needs that cannot be met with the resources available in the community.

Provides that such court should consider the findings of a validated risk and needs assessment and the findings of any other appropriate professional assessment available to the court.

Continues the Texas Juvenile Justice Board (board) and the TJJD until September 1, 2021.

Requires TJJD to develop, and the board to adopt, a regionalization plan for keeping children closer to home in lieu of commitment to the secure facilities operated by TJJD.

Requires TJJD to consult with juvenile probation departments in developing a regionalization plan.

Requires that the regionalization plan define regions of the state to be served by facilities operated by juvenile probation departments, counties, halfway houses, or private operators, based on the post-adjudication facilities identified as being available for the purpose of the plan.

Requires TJJD to ensure that each region has defined, appropriate, research-based programs for the target populations under the regionalization plan.

Sets forth the requirements of the regionalization plan, including creating a new division (division) of the TJJD responsible for administering the regionalization plan and monitoring program quality and accountability.

Sets forth the duties of the division.

Provides that a region is eligible for funding to support evidence-based, intensive in-home services only if the region meets the performance standards established by TJJD and adopted in contracts for placement and services.
Requires TJJD to adopt rules to allow the local probation departments implementing the regionalization plan to access the data submitted by those departments in the state juvenile case management system for planning and research purposes.

Requires that the regionalization plan be finalized not later than August 31, 2016.

Requires the legislature, for the state fiscal years beginning September 1, 2015, and September 1, 2016, to appropriate funds necessary to develop and initiate the implementation of the regionalization plan.

Requires TJJD to develop specialized programs for certain children to ensure safety and security for committed children and provide developmentally appropriate program strategies.

Requires TJJD to establish performance-based goals related to improved outcomes.

Requires TJJD to use case review strategies to identify children in TJJD facilities who can safely and appropriately be transferred to alternative local placements or halfway houses, placed on parole, or discharged from TJJD.

Requires TJJD to study and report to the board on the potential for repurposing existing secure facilities for the confinement of certain children or for other purposes.

Prohibits TJJD or any local probation department from using or contracting with a facility that was constructed or previously used for the confinement of adult offenders.

Requires that any risk and needs assessment instrument or process that is provided or approved by TJJD for use by a juvenile probation department must be a validated instrument or process.

Requires TJJD to annually allocate funds for financial assistance to juvenile boards to provide juvenile services according to a basic probation funding formula for departments that clearly defines what basic probation entails and which services are provided.

Authors the legislature to appropriate the amount of state aid necessary to initiate and support the regionalization plan so that savings are generated by decreases in the population of TJJD facilities.

Requires TJJD to set aside a portion of the funds appropriated to TJJD for discretionary state aid to fund projects dedicated to specific target populations based on risk and needs, and with established recidivism reduction goals.

Requires TJJD to develop discretionary grant funding protocols based on documented, data-driven, and research-based practices.

Requires TJJD to reimburse counties for the placement of children in the regional specialized program at a rate that offers a savings to the state in relation to the average cost per day for confining a child in a TJJD facility.
Prohibits TJJD from adversely impacting the state aid for a juvenile board or a juvenile probation department that does not enter into a contract to serve youth from other counties, or does not act as a regional facility.

Provides that a juvenile board or juvenile probation department may not be required to accept a child for placement in a post-adjudication correctional facility, unless the child is subject to an order issued by a juvenile court served by that board or department.

Requires the independent ombudsman to immediately report the findings of any investigation related to the operation of a post-adjudication correctional facility in a county to the chief juvenile probation officer and the juvenile board of the county.

Expands the powers of the office of independent ombudsman include:
- post-adjudication correctional facilities;
- any other residential facility in which a child adjudicated as having engaged in conduct indicating a need for supervision or delinquent conduct is placed by court order; and
- the investigation of complaints alleging a violation of the rights of the children placed in such a facility.

Sealing of Certain Juvenile Records—S.B. 1707
By Senator Huffman—House Sponsor: Representative Miles

Under the Family Code, a juvenile who is eligible to have his or her records sealed must petition the court two years after the date the judgment is entered. The juvenile is eligible to apply for the sealing of the records if he or she does not have any pending juvenile or criminal proceedings and has not been adjudicated in juvenile court or convicted in criminal court of other crimes. Less than one percent of eligible juveniles petition to have their records sealed, either because they forget to petition the court, they do not know that sealing is an option, or they cannot afford an attorney to file the necessary paperwork. Records of these convictions can appear in employer background checks, hampering the redemptive goals of the juvenile system. This bill:

Amends the current statute to require the juvenile court to order the sealing of the records in the case, rather than requiring an application by the person.

 Strikes all references to the application and replaces the term "applicant" with "person."

Requires the court to give the prosecuting attorney for the juvenile court reasonable notice before a person's records become eligible for sealing.

Provides that the court may hold a hearing before sealing the person's records if the prosecuting attorney requests a hearing.
The Texas Violent Gang Task Force (TVGTF) brings together personnel from criminal and juvenile justice agencies throughout the state to establish a statewide gang networking system. This bill:

Modifies the composition of TVGTF by:
- requiring two representatives of the Texas Juvenile Justice Department, rather than one representative of the Texas Youth Commission;
- striking a reference to the Texas Juvenile Probation Commission; and
- adding a representative of the Texas Alcoholic Beverage Commission.
Statute of Limitations for the Offense of Sexual Abuse of a Child—H.B. 189
by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Van Taylor

Evidence suggests that an overwhelming majority of sexual assault victims know the perpetrator, that a similarly large majority of sexual assault victims do not report the crime, and that a majority of rapists are currently at large. The statute of limitations for sexual assault is 10 years from the date of the commission of the offense, and only under certain circumstances is there no statute of limitations. In many circumstances it takes several years for a victim of sexual assault to overcome the emotional trauma of the assault and come forward to authorities, while in other cases, due to technology incapacities, the proper processing of certain evidence might not be able to occur until years later when new technology advances are made. H.B. 189 seeks to eliminate the statute of limitations for sexual assault and aggravated sexual assault offenses. This bill:

Adds sexual assault, if probable cause exists to believe that the defendant has committed the same or a similar sexual offense against five or more victims, to a list of felony indictments that may be presented with no limitation, except as provided by Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), Code of Criminal Procedure.

Provides that the change in law made by this Act does not apply to an offense if the prosecution of that offense becomes barred by limitation before the effective date of this Act, and that the prosecution of that offense remains barred as if this Act had not taken effect.

Creating the Offense of Voyeurism—H.B. 207
by Representative Leach et al.—Senate Sponsor: Senator Whitmire

Voyeurism is a type of behavior that serves as a common gateway offense that may lead to other, more violent sexual offenses. The conduct constituting an offense of voyeurism is currently classified as an inadequately serious offense, and many acts of voyeurism are carried out by repeat offenders. This bill:

Provides that a person commits an offense if the person, with the intent to arouse or gratify the sexual desire of the actor, observes another person without the other person’s consent while the other person is in a dwelling or structure in which the other person has a reasonable expectation of privacy. Provides that the offense is a Class C misdemeanor. Provides that the offense is a Class B misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted two or more times of the offense. Provides that the offense is a state jail felony if the victim was a child younger than 14 years of age at the time of the offense. Provides that, if conduct that constitutes the offense also constitutes an offense under any other law, the actor may be prosecuted under this Act, the other law, or both.

Monitoring Internet Access of Certain Sex Offenders—H.B. 372
by Representative Riddle et al.—Senate Sponsor: Senator Whitmire

Law enforcement agencies have seen a dramatic increase in cases of sexual exploitation of children since the 1990s. Studies have found that the Internet provides more opportunities for the victimization of children. Probation and parole agencies are currently limited in monitoring a sex offender’s use of a computer or the Internet, leaving open the possibility for further victimization. This bill:
Expands the requirement that a court granting community supervision to a person required to register as a sex offender impose certain restrictions on Internet use to include a defendant assigned a numeric risk level of two.

Expands the requirement that a parole panel releasing on parole or to mandatory supervision a person required to register as a sex offender impose certain restrictions on Internet use to include a releasee assigned a numeric risk level of two.

Requires a defendant or releasee whose access to the Internet has been limited to submit for regular inspection or monitoring each electronic device used to access the Internet.

**Increased Punishment for Offense of Child Pornography—H.B. 2291**

*by Representative Parker et al.—Senate Sponsor: Senator Perry*

Federal law governing the possession or promotion of child pornography contains a graduated penalty schedule for an offender with multiple convictions. Because many minors who are victims of human trafficking are depicted in child pornography, it holds that a graduated penalty schedule for subsequent convictions of such offenses is necessary in order to discourage the demand for these illegal products and to adequately address the punishment of the offenders. Other states have adopted graduated penalty schedules for these reasons but that Texas law does not currently provide for similar enhanced penalties, regardless of how many times an offender has been previously convicted. This bill:

Provides that a court may order a defendant convicted of an offense related to the possession or promotion of child pornography to make restitution to the victim in an amount equal to the expenses incurred by the individual as a result of the offense.

Increases the possession offense from a felony of the third degree to a felony of the second degree, rather than third degree, except that the offense is a felony of the first degree if it is shown on the trial of the offense that the person has been previously convicted one or more times of an offense under that subsection.

Increases the promotion offense from a felony of the second degree to a felony of the first degree.

Provides that an inmate serving a sentence for either offense is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the inmate's sentence.

**Sex Offender Treatment as Condition of Parole or Supervision—H.B. 3387**

*by Representative Krause et al.—Senate Sponsor: Senator Whitmire*

Although current law allows the Board of Pardons and Paroles (BPP) to impose certain special conditions on sex offenders supervised by the Texas Department of Criminal Justice (TDCJ), the statutes do not explicitly state that BPP can require that a sex offender participate in a sex offender treatment program as a condition of release to parole or mandatory supervision. This bill:
Provides that a parole panel, as a condition of release on parole or to mandatory supervision, must require a releasee to participate in a sex offender treatment program developed by TDCJ if the releasee:

- was serving a sentence for an offense under Chapter 21 (Sexual Offender), Penal Code, or is required to register as a sex offender under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure; and
- immediately before release, the releasee is participating in a sex offender treatment program established under Section 499.054 (Sex Offender Treatment Program), Government Code.

Authorizes a parole panel, as a condition of release on parole or to mandatory supervision, to require a releasee to participate in a sex offender treatment program as specified by the parole panel if the releasee:

- was serving a sentence for an offense under Chapter 21, Penal Code; or
- is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or
- a designated agent of BPP, after conducting a hearing that allows the releasee to contest the evidence, makes an affirmative finding that, based on evidence that a sex offense occurred during the commission of the offense for which the releasee was serving a sentence, regardless of the offense for which the releasee was serving a sentence, the releasee constitutes a threat to society because of the releasee's lack of sexual control.

**Offense of Online Solicitation of a Minor—S.B. 344**

*by Senator Huffman et al.—House Sponsor: Representative Dale*

On October 30, 2013, in *Ex Parte John Christopher Lo*, a unanimous Texas Court of Criminal Appeals (court) held that Section 33.021(b), relating to online solicitation of a minor, Penal Code, violates the First Amendment to the United States Constitution, which protects free speech. Section 33.021(b) bars persons 17 years of age or older, with the intent to arouse or gratify sexual desire, from intentionally communicating in a sexually explicit manner with a minor or distributing sexually explicit material to a minor through the Internet or electronic media. The court held that Section 33.021(b) punishes certain communications to a minor, even when the actor had no intent to meet the minor, and prohibits speech based on its content by barring certain online communications with a minor, including any communication or material relating to sexual conduct. The court declared that this bar is overly broad and therefore unconstitutional, as it could encompass a substantial amount of lawful speech, such as many movies, television shows, and books. This bill:

Provides that a "minor" means an individual who is, rather than represents himself or herself to be, younger than 17 years of age.

Makes it an offense for a person who is 17 years of age or older to communicate through the Internet or electronically with a minor with the intent to commit certain specified sexual or trafficking offenses, rather than to arouse or gratify the sexual desire of any person.

Strikes provisions providing that it is not a defense to prosecution that the actor did not intend for the meeting to occur or that the actor was engaged in a fantasy at the time of the offense.
Civil Commitment of Sexually Violent Predators—S.B. 746
by Senators Whitmire and Perry—House Sponsor: Representative Sylvester Turner

Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code, sets forth a civil commitment procedure for the long-term supervision and treatment of sexually violent predators. The Office of Violent Sex Offender Management (OVSOM) is responsible for providing appropriate and necessary treatment and supervision through the case management system. A report by the State Auditor's Office, issued January 26, 2015, found numerous problems with OVSOM and its management of the sexually violent predators program. In addition, it was reported that the judge of the 435th district court of Montgomery County, a specialty court created by the legislature to hear civil commitment proceedings under Chapter 841, has been accused of prejudice and bias based on public remarks made by the judge, resulting in his recusal from civil commitment cases. Further, all major vendors who currently house the individuals monitored by OVSOM have stated that they will no longer provide housing after August 2015. This bill:

Changes the name of OVSOM to the Texas Civil Commitment Office (TCCO) and makes conforming changes throughout the statutes.

Requires TCCO to develop a tiered program for the supervision and treatment of a civilly committed person that provides for the seamless transition of person civilly committed as a sexually violent predator (committed person) from a total confinement facility to less restrictive housing and supervision and eventually to release from civil commitment, based on the person's behavior and progress in treatment. Makes conforming changes throughout Chapter 841 to reflect the tiered system.

Requires TCCO to:
- operate, or contract with a vendor to operate, facilities for housing committed persons;
- designate a facility to serve as an intake and orientation facility for committed persons on release from a secure correctional facility;
- develop procedures for the security and monitoring of committed persons in each programming tier; and
- transfer a committed person to less restrictive housing and supervision if the transfer is in the best interests of the person and conditions can be imposed that adequately protect the community.

Authorizes a committed person to file a petition with a court for transfer to less restrictive housing and supervision.

Requires the court to grant the transfer if the court determines that the transfer is in the best interests of the person and conditions can be imposed that adequately protect the community.

Requires TCCO to return a committed person who has been transferred to less restrictive housing and supervision to a more restrictive setting if the transfer is necessary to further treatment and to protect the community, based on the person's behavior or progress in treatment.

Provides that a committed person returned to a more restrictive setting is entitled to file a petition with the court seeking review of TCCO's determination.
Requires the Health and Human Services Commission to coordinate with TCCO to provide psychiatric services, disability services, and housing for a committed person with an intellectual or developmental disability, a mental illness, or a physical disability that prevents the person from effectively participating in the sex offender treatment program administered by TCCO.

Requires that a committed person released from housing operated by or under contract with TCCO be released to the county in which the person was most recently convicted of a sexually violent offense.

Provides that an "attorney representing the state" means a district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction who represents the state in a civil commitment proceeding, rather than an attorney employed by the civil division of the special prosecution unit.

 Strikes a provision providing that a person is a repeat sexually violent offender for the purposes of this chapter if the person is convicted of more than one sexually violent offense and the person is adjudged not guilty by reason of insanity of a sexually violent offense.

Requires TCCO to develop and implement a sex offender treatment program for committed persons.

Set forth when the Texas Department of Criminal Justice (TDCJ) may give notice to the multidisciplinary team established under Section 841.022 (Multidisciplinary Team), Health and Safety Code, with respect to a person who is scheduled to be released on parole or to mandatory supervision.

Changes the composition of the multidisciplinary team, specifying that the team include certain professionals or licensed providers.

Requires TDCJ to provide training to multidisciplinary team members regarding the civil commitment program.

Provides that the hearing for civil commitment must be filed in the court of conviction for the person's most recent sexually violent offense, rather than in a Montgomery County district court.

Authorizes the special prosecution unit to provide legal, financial, and technical assistance to the attorney representing the state for a civil commitment proceeding.

Prohibits a judge from continuing a trial to a date occurring later than the person's sentence discharge date.

Requires that an agreed order of civil commitment require the person to submit to the treatment and supervision administered by TCCO.

Requires TDCJ and TCCO to:

- prioritize enrolling any committed person who has not yet been released by TDCJ in a sex offender treatment program; and
- adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care for committed persons enrolled in a sex offender treatment program.
Requires TDCJ, before a committed person is released from a secure correctional facility, to ensure that the Department of Public Safety of the State of Texas issues a personal identification card to the person and the person completes an application for certain federal benefits for which the person may be eligible.

Requires TCCO to determine the conditions of supervision and treatment of a committed person.

Requires TCCO to enter into appropriate contracts for the provision of any necessary supervised housing and other related services and authorizes TCCO to enter into appropriate contracts for medical and mental health services and sex offender treatment.

Provides that a civilly committed person who is not indigent is responsible for the cost of housing and treatment.

Requires that money collected be deposited to the credit of the account from which the costs were originally paid.

Requires TCCO to provide advance notice of any intent to house one or more committed persons at a new residence or facility that has not previously served as housing for committed persons.

Requires a vendor to provide advance notice of any intent to submit a proposal to the office for the construction or renovation of a residence or facility that will serve as a new location for housing committed persons. Sets forth notice requirements.

Requires a judge to conduct a review of the status of the committed person and issue an order concluding the review or setting a hearing not later than the 60th day after the date of receipt of the report of the biennial examination of a committed person.

Requires a judge to review and issue a ruling on a petition for release filed by the committed person without TCCO's authorization not later than the 60th day after the date of filing of the petition.

Requires TCCO to determine the conditions of supervision and treatment of a committed person and to develop and implement the tiered program described by the Act.

Provides immunity from liability for good faith conduct under this Act to the attorney representing the state and an employee of the attorney.

Provides that the duties imposed on TCCO and the judge are suspended for the duration of a detention or confinement of a committed person in a correctional facility, secure correctional facility, or secure detention facility.

Provides that an offense may be prosecuted in the court that retains jurisdiction over the civil commitment proceeding.

Provides that the state must pay the salaries of and other expenses related to the court reporter and court coordinator appointed for the 435th District Court only to the extent that the duties of those individuals relate to civil commitment proceedings or to certain criminal cases.
Expands the board of TCCO to five members from three and makes conforming changes.
Academic Achievement and High School, College, and Career Preparation—H.B. 18
by Representative Aycock et al.—Senate Sponsor: Senators Perry and West

Recent education reforms allow students more flexibility in their coursework so that they can tailor their courses to better reflect their own goals for college and career success. More options for students means more guidance is necessary to help students make the most of the available opportunities. This bill:

Adds the State Board of Education (SBOE) to the bodies that the Texas High Performance Schools Consortium (consortium) must keep informed.

Requires the consortium to provide information regarding standards and systems relating to career and college readiness.

Increases the number of participants in the consortium that the commissioner of education (commissioner) may select from 20 to 30.

Strikes a provision requiring that an open-enrollment charter school have been awarded an exemplary distinction designation during the preceding school year in order to participate in the consortium.

Increases the cap on the number of students enrolled in consortium participants from five to 10 percent of the total number of students enrolled in Texas public schools.

Requires school districts and open-enrollment charter schools participating in the consortium, rather than the commissioner, to submit reports concerning the performance and progress of the consortium to the governor, the legislature, SBOE, and the commissioner not later than December 1 of each even-numbered year.

Strikes provisions setting forth what the report must include.

Provides that a rule adopted by the Texas Higher Education Coordinating Board (THECB) may not limit the number of dual credit courses or semester credit hours in which a student may enroll while in high school or limit the number of dual credit courses or semester credit hours in which a student may enroll each semester or academic year.

Requires the Texas Education Agency (TEA) to develop and make available to school districts uniform public outreach materials explaining and outlining the details of public school curriculum changes under H.B. 5, 83rd Legislature, Regular Session, 2013, and subsequent associated decisions by SBOE.

Sets forth the requirements for such materials.

Provides that these provisions regarding outreach materials expire September 1, 2018.

Requires such materials to be developed no later than December 1, 2015.

Requires school districts to provide instruction to students in grade seven or eight in preparing for high school, college, and a career. Sets forth the information that must be included in such instruction.
Authorizes school districts to either provide this instruction as part of certain existing courses or in a new elective course.

Requires the Center for Teaching and Learning at The University of Texas at Austin (center) to develop and make available postsecondary education and career counseling academies for middle school, junior high school, and high school counselors and other postsecondary advisors employed by a school district.

Requires the center, in developing such academies, to solicit input from TEA, school counselors, the Texas Workforce Commission, institutions of higher education, and business, community, and school leaders.

Requires such academies to provide counselors and other postsecondary advisors with knowledge and skills to provide counseling to students regarding postsecondary success and productive career planning. Sets out what information must be included.

Requires the center to develop an online instructional program that school districts may use in providing instruction in high school, college, and career preparation.

Provides that a school counselor who attends an academy is entitled to receive a stipend in the amount determined by the center. Requires the center, if funds are available after all eligible school counselors have received a stipend, to pay a stipend in the amount determined by the center to a teacher who attends the academy.

Authorizes the center to provide to school counselors and other educators curricula, instructional materials, and technological tools relating to postsecondary education and career counseling.

Requires the center to comply with applicable provisions of the federal Family Educational Rights and Privacy Act of 1974.

Requires an institution of higher education that administers an assessment instrument to students under Section 51.3062 (Success Initiative), Education Code, to report to each school district from which assessed students graduated all available information regarding student scores and performance on the assessment instrument and student demographics.

Requires THECB to adopt rules to implement this provision.

Requires that a course offered for joint high school and junior college credit be taught by a qualified instructor approved or selected by the public junior college. Sets forth instructor qualifications.

Requires a junior college, not later than the 60th day after receipt, to approve or reject an application for approval to teach such a course at a high school.

Provides that money from the skills development fund may be awarded to a school district to be used under an agreement with a lower-division institution of higher education to support courses offered for joint high school and college-level credit or offered under a college credit career or technical education program that leads to an industry-recognized license, credential, or certificate.
Issuing Revenue Bonds for Capital Construction—H.B. 100  
by Representative Zerwas et al.—Senate Sponsor: Senator Seliger et al.

This is the capital construction bill for institutions of higher education. This bill:

Grants the authority to issue tuition revenue bonds to finance capital acquisition, construction, and improvements to the boards of regents of The University of Texas A&M University System, The University of Texas System, The University of Houston System, The Texas State University System, The University of North Texas System, Texas Woman's University, The Texas Tech University System, Texas State Technical College System, Texas Southern University, Midwestern State University, and Stephen F. Austin State University.

The bill sets bond issuance limits for all projects at 55 campuses that boards of regents may not exceed, totaling approximately $3 billion. Projects include academic, research, community buildings and facilities.

Requiring Public IHEs to Provide Mental Health Resources—H.B. 197  
by Representative Price et al.—Senate Sponsor: Senator Nelson

College-aged youth experience depression and other mental health-related at higher rates than the general population. Mental health experts and parents of students who have committed suicide say that death and self-harm can be prevented by raising further awareness of mental health resources. This bill:

Requires public institutions of higher education (IHEs) to dedicate a page on their Internet website solely to information regarding the mental health resources that are available to students at that institution in addition to the address of the nearest local mental health authority.

Public Junior College District Branch Campuses—H.B. 382  
by Representatives Canales et al. — Senate Sponsor: Senator Lucio

The South Texas Community College District is the community college system established by the legislature to serve Hidalgo and Starr counties. While the district serves those counties with multiple campuses in several Lower Rio Grande Valley communities, interested parties suggest that the district's service area needs an extension facility more conveniently located to other communities in the district. This bill:

Requires the board of trustees of the South Texas Community College District to adopt and implement a plan to expand opportunity for instructional programs consisting of postsecondary courses leading to an associate degree offered in a classroom setting within the corporate limits of the municipality of Edcouch or Elsa.

Changes references to the Coordinating Board, Texas College and University System, to the Texas Higher Education Coordinating Board (THECB).

Provides that bonds payable from revenue and issued by the governing body of a county or school district to finance the purchase of land or the construction of a facility may be used for a branch campus, center, or
extension facility to be secured by a trust indenture, a deed of trust, or a mortgage granting a security interest in the applicable land or facility.

Provides that a university system or institution of higher education is not required to make the report on or after September 1, 2013, to the extent that any of the following laws require reporting by a university system or an institution of higher education, unless certain legislation enacted by the 83rd Legislature that becomes law expressly requires the institution or system to make the report.

**Grants for Nursing Education Programs—H.B. 495**

*by Representative Howard—Senate Sponsor: Senator Hinojosa*

The dedication of funds from the permanent fund for health-related programs to provide grants to nursing education programs is currently set to expire August 31, 2015. This bill:

Provides that the dedication of such funds is extended until August 31, 2019.

**Texas State Technical College Campus in Fort Bend County—H.B. 658**

*by Representative Zerwas et al.—Senate Sponsor: Kolkhorst*

Fort Bend County and Wharton County Junior College have been operating an education extension program in Fort Bend County to meet its high-tech and advanced workforce needs. Local industry growth now outpaces the program’s ability to educate and prepare employees.

The county's demand for technical jobs exceeds the number of workers to fill them by 10 percent, and over 50,000 new technical jobs are projected in the area in the next 15 years. According to a study commissioned by The George Foundation and the Henderson-Wessendorff Foundation, an additional 1,000 employees with a technical education would add an estimated $800 million to $1 billion to the local economy. This bill:

Authorizes the redesignation and incorporation of the extension program in Fort Bend County as a campus of the Texas State Technical College System.

**Athletics Fee at Stephen F. Austin State University—H.B. 671**

*by Representative Clardy—Senate Sponsor: Senator Nichols*

Stephen F. Austin (SFA) State University is a member of an athletics conference that participates in National Collegiate Athletic Association events despite not being aided by an athletics fee. As a result, SFA is struggling to maintain competitive athletics facilities. Current law prohibits SFA from imposing an athletic fee. This bill:

Authorizes the board of regents of SFA to charge an athletics fee of $10 per semester credit hour. Students taking more than 15 semester credit hours will be charged for no more than 15 hours.
Sexual Assault Policies at IHEs—H.B. 699
by Representative Nevárez et al.—Senate Sponsor: Senator Uresti

There currently are no state statutory requirements for public institutions of higher education (IHEs) to establish a sexual assault policy. Advocates contend that, as a consequence, students lack the necessary instruction to know when they need to report an incident of sexual assault. This bill:

Requires each IHE to adopt a sexual assault policy that includes definitions of prohibited behavior, sanctions for violations, and the protocol for reporting sexual assault on campus. Requires each IHE to make its policy available in its student handbook and on its Internet website. Requires each IHE to require entering students to attend an orientation regarding its sexual assault policy.

Repealing the Texas B-On-Time Student Loan Program—H.B. 700
by Representative Giddings et al.—Senate Sponsor: Senator Seliger

The Texas B-On-Time Loan program (loan program) was established to incentivize higher education students to graduate on time and with good grades. If a student does so, their loan debt is forgiven.

The loan program is funded by tuition set asides that are collected by the Texas Higher Education Coordinating Board (THECB) and reallocated to institutions in proportion to the amount collected, based on legislative appropriations and an institution's funding needs. The current reallocation formula results in funds benefitting students at institutions other than the one from which the tuition set aside was collected. Advocates argue that institutions can provide better financial aid services to their students if they have full control of the funds that are set aside to fund the loan program. This bill:

Repeals the B-On-Time Loan program by phasing it out over the next five years and abolishing the five percent undergraduate tuition set-aside that funds the loan program.

Requires THECB to cease making new loans beginning in the fall semester of 2015 but allows THECB to renew loans that are received by September 1, 2015. Provides that on September 1, 2020, the Texas B-On-Time account from which the loans are made will be abolished.

Provides that any balance left in the Texas B-On-Time account is redistributed to eligible institutions by THECB. The bill requires THECB to develop a formula to fairly allocate the remaining funds to institutions at which the B-On-Time program was underutilized.

Tasting of Alcoholic Beverages in Certain Courses—H.B. 909
by Representative Phillips—Senate Sponsor: Senator Watson

Several institutions of higher education in Texas offer programs related to the production of wine, beer, or liquor or culinary programs in which the tasting of alcohol as it relates to food is a part of the instruction. Current law does not provide an exception that would allow students in these courses who are at least 18 years of age, but under 21 years of age, to taste alcohol as it pertains to course work. Without such an exception, a student cannot fully participate in the course work, which may result in some students having
to delay such course work until they are 21 years of age. Other states have established exceptions for such students. This bill:

Authorizes a minor, notwithstanding any other law, to taste an alcoholic beverage if the minor is at least 18 years old and is enrolled as a student at a public or private institution of higher education or a career school or college that offers a program in culinary arts, viticulture, enology or wine technology, brewing or beer technology, or distilled spirits production or technology; and:

- the beverage is tasted for educational purposes as part of the curriculum for the course;
- the beverage is not purchased by the minor; and
- the service and tasting of the beverage is supervised by a faculty or staff member who is at least 21 years of age.

Provides that a public or private institution of higher education or a career school or college is not required to hold a license or permit to engage in such activities.

Support for General Academic Teaching Institutions—H.B. 1000
by Representatives Zerwas and Faircloth—Senate Sponsor: Senator Seliger

H.B. 1000 amends current law relating to state support for general academic teaching institutions. H.B. 1000 effectively restructures the state research funds and aligns the funding available to institutions of higher education (IHEs) based on their individual ratings for accountability. This restructuring allows IHEs to compete for research funds against other IHEs in their grouping and allows the state to direct research funding on IHEs that are close to receiving Tier 1 status. This bill:

Amends several terms in Section 62.051 (Definitions), Education Code.

Amends Section 62.052 (Purpose), Education Code, so that the purpose is to provide funding to eligible research universities to support faculty to ensure excellence in instruction and research.

Provides that the Texas research university fund consists of money appropriated by the legislature to eligible institutions for the purposes of this subchapter and provides that the amounts to be appropriated to eligible institutions based on the average amount of total research funds expended by each institution per year for the three preceding state fiscal years.

Amends Section 62.091 (Purpose), Education Code, to establish the Texas comprehensive research fund to provide funding to promote increased research capacity at eligible general academic teaching institutions.

Provides that the Texas comprehensive research fund consists of money appropriated by the legislature to eligible institutions.

Provides that, under Section 62.131 (Purpose), Education Code, the core research support fund is established to provide funding to promote increased research capacity at emerging research universities.

Defines various terms, including "coordinating board," "eligible institution," and "fund."
Provides that the core research support fund consists of money appropriated by the legislature to eligible institutions. Requires that, according to Section 62.134 (Appropriation of Fund to Eligible Institutions), Education Code, the appropriation amount to be the following: 50 percent based on the average amount of restricted research funds expended by each institution per year for the three preceding state fiscal years, determined in the manner described by Section 62.095 (Apportionment of Fund to Eligible Institutions), Education Code, and 50 percent based on the average amount of total research funds expended by each institution per year for the three preceding state fiscal years, determined in the manner described by Section 62.053 (Fund), Education Code.

Authorizes the Texas Higher Education Coordinating Board (THECB) to audit the appropriate records of an eligible institution to verify information and, for final determination of eligibility, authorizes an eligible institution to appeal THECB's decision regarding the institution's verified information relating to the amounts of restricted research expended.

Provides that an eligible institution may use money received from the fund only for the support and maintenance of educational and general activities, including research and student services, that promote increased research capacity at the institution, and that money received by an institution from the fund in a fiscal year that is not used by the institution in that fiscal year may be held and used by the institution in subsequent fiscal years.

Requires each eligible institution that receives funding in a state fiscal year to prepare a report at the end of that fiscal year describing the manner in which the institution used the money. Requires the institution to include in the report information regarding the use of money spent in that fiscal year that was received in a preceding fiscal year.

Licensed Massage Therapy Programs—H.B. 1049
by Representatives Eddie Rodriguez and Koop—Senate Sponsor: Senator Rodriguez et al.

Massage therapy schools are licensed by the Texas Department of State Health Services (DSHS) and subject to DSHS oversight. Some licensed schools choose to meet more stringent regulatory requirements for further accreditation as well as Title IV approval by the United States Department of Education (DOE). Students who choose to attend these schools are eligible for Title IV student loans administered by DOE.

In 2011, DOE issued new accreditation rules requiring that state agencies regulating these schools certify that these programs are post-secondary education and that the schools are authorized to provide an educational program beyond a secondary level. While it is clear that these education programs are post-secondary, and have been qualified under Title IV for years, Chapter 455 (Massage Therapy), Occupations Code, establishing the regulation of massage therapy schools, makes no mention of the education classification of these types of programs. Therefore, DSHS does not believe they currently possess the authority to certify to DOE a classification that does not exist in the statute giving the agency authority over massage therapy schools.

Because the Texas Legislature only meets every other year, the DOE has provided a time extension, at the request of the legislature, to make this technical change. This allows students at certain campuses to participate in the Title IV program on a temporary basis while the legislature is in session. This bill:
Provides that a massage therapy program at a licensed massage school is a postsecondary education program.

**Texas State Technical College System Campus in Ellis County—H.B. 1051**

*by Representatives Wray and Fallon—Senate Sponsor: Senator Birdwell*

The Texas State Technical College (TSTC) System provides technical-vocational education to satisfy demand for workers with technical education in the Texas workforce. TSTC offers certificate and associate degree programs and has campuses in Harlingen, Marshall, Waco, West Texas, Abilene, Breckenridge, Brownwood, and Sweetwater. H.B. 3640 (Pitts), 83rd Legislature, Regular Session, 2013, authorized the creation of a TSTC extension center in Ellis County. This bill:

Establishes a TSTC campus in the City of Red Oak in Ellis County.

**Adding Definitions to the Texas Success Initiative—H.B. 1054**

*by Representative Clardy—Senate Sponsor: Senator Zaffirini*

The Texas Success Initiative (TSI) assessment allows institutions of higher education (IHEs) to appropriately place students in classes that match their skills set. Students who are determined to be college ready by TSI are able to begin entry level course work, while students who need more development are placed in remediation classes to prepare them for entry level course work. However, some students' performance on the TSI is significantly below the college ready benchmark, and the three categories, college ready, developmental education, and adult basic education, which are used to classify students' skills do not accurately describe the skills of these low-performing students. This bill:

Adds the "Basic Academic Skills" level to the remediation definitions of the TSI assessment statute.

Requires the Texas Higher Education Coordinating Board to develop and provide professional development programs, including differentiated instruction methods to address students' diverse learning needs.

Requires the legislature to appropriate money for approved non-degree-credit developmental courses, including basic academic skills education.

**Requiring Public Universities to Post Certain Employment Data—H.B. 1287**

*by Representative Simmons—Senate Sponsor: Senator Burton*

Advocates have argued that increased university transparency regarding job statistics of postsecondary graduates would allow prospective students to weigh the benefits of a degree against the rising costs of tuition more accurately. The Texas Higher Education Coordinating Board and the Texas Workforce Commission currently operate a joint data collection and tracking project on college graduates—the Texas Consumer Resource for Education and Workforce Statistics (Texas CREWS). Texas CREWS provides comparative information about Texas public two-year and four-year postsecondary institutions. This bill:
Requires each general academic institution to maintain a prominent link to the most recent Texas CREWS report on the institution's Internet website.

**Block Scheduling for Certain Public Junior College Programs—H.B. 1583**  
*by Representative Clardy—Senate Sponsor: Senator Zaffirini*

Many college students in Texas attend school part-time while they work to help pay for school. Advocates of H.B. 1583 argue that because so many part-time students balance multiple demands in their lives such as work and child care in addition to academics, they will meet those demands instead of taking classes, which leads to slower and lower completion rates.

The Texas Higher Education Coordinating Board (THECB) produced a report after the 82nd Legislature that recommended utilizing block schedules with consistent meeting times to provide predictability and stability in students’ schedules. This bill:

- Requires community colleges and junior colleges to establish block schedule curriculum for at least five associate degree programs.
- Requires each public community college and junior college to publish available block schedule curricula for each program offered in block schedule.
- Requires THECB to adopt rules by which a junior college may petition THECB for an exemption to the block schedule curriculum requirement.
- Requires THECB to report on the effectiveness of block scheduling no later than November 1, 2015.

**Eliminating Duplicative Academic Examinations—H.B. 1613**  
*by Representative Guillen—Senate Sponsor: Senator Perry*

In 2006, the legislature instructed the Texas Education Agency and the Texas Higher Education Coordinating Board (THECB) to develop the college and career readiness standards in an effort to increase the number of students who are college and career ready upon graduation from high school. The standards are designed to measure knowledge and skills that students need to succeed in college and the job market.

Unless otherwise exempted, students who are entering a Texas college or university must take a Texas Success Initiative (TSI) examination and receive a passing score in order to enroll in credit bearing courses. Advocates of H.B. 1613 contend that TSI assessments are at least equal in rigor to state administered end-of-course examinations and that taking both tests is redundant for students who demonstrate subject mastery on TSI assessments and who are still required to pass end-of-course examinations in like subjects. This bill:

- Requires the State Board of Education (SBOE) to develop and by rule adopt a chart showing the alignment of the Texas Essential Knowledge and Skills curriculum with the college readiness standards.
Requires SBOE to incorporate college readiness standards of education into the essential knowledge and skills as identified by SBOE.

Provides that a student is exempt from Algebra I or the English I and English II end-of-course examinations if they satisfy TSI college readiness benchmarks prescribed by THECB under Section 51.3062 (Success Initiative), Education Code.

**Center for Public Safety Training in the Rio Grande Valley—H.B. 1887**  
*by Representative Muñoz et al.—Senate Sponsor: Senator Hinojosa*

Access to peace officer licensing courses in the South Texas region is limited, with four police academies in Hidalgo and Starr counties that receive certification from the Texas Commission on Law Enforcement. Furthermore, the Texas Workforce Commission projects an estimated 22 percent increase in certified police officer positions for the South Texas region over the next 10 years. This bill:

Establishes the Regional Center for Public Safety Excellence to provide education and training for law enforcement officers in the Rio Grande Valley. The center will provide education and training toward an associate of applied science degree, baccalaureate degree for applied science as authorized by the Texas Higher Education Coordinating Board, and a Texas Commission on Law Enforcement officer certification.

Requires South Texas College to partner with local governments and school districts to administer the center.

**Advanced Placement Examination for College Credit—H.B. 1992**  
*by Representatives Zerwas and Clardy—Senate Sponsor: Senator Seliger et al.*

Each public institution of higher education (IHE) is currently required to establish policies for awarding college credit to incoming freshmen based on their Advanced Placement (AP) examination performance. This bill:

Requires IHEs to award college credit for lower-division courses if a student earned a score of three or higher on the corresponding AP examination.

Requires the Texas Higher Education Coordinating Board (THECB) to compare by study the academic performance, retention rates, and graduation rates of students who took lower-division courses with those of students who earned a three or higher on the AP examination and received credit for the course.

Authorizes a chief academic officer of an IHE to require a score of higher than three if it is determined that a score of three does not indicate sufficient preparedness for the student's next course.
Eliminating Certain Tuition Set Asides—H.B. 2396  
by Representative Howard et al.—Senate Sponsor: Senator Seliger

The Texas Education Code authorizes tuition set-asides at medical schools and public law schools to help fund the physician education loan repayment program and a loan repayment program for attorneys at the Office of the Attorney General, respectively. While both programs may be funded through means including tuition set asides, gifts, and grants, the physician education loan repayment program may also be funded through legislative appropriations. This bill:

Eliminates tuition set asides for both repayment programs.

Sunset Provision on Limiting Automatic Admissions—H.B. 2472  
by Representative Zerwas—Senate Sponsor: Senator Watson

In 2008, 81 percent of the Texas residents in the freshmen class at The University of Texas at Austin were automatically admitted under the top 10 percent rule. In 2009, the legislature approved S.B. 175 (Shapiro; SP: Branch) to limit such admissions to 75 percent of an incoming freshman class. The 83rd Legislature set the sunset date for this provision to the 2017-2018 academic school year. This bill:

Repeals the sunset provision for limited automatic admission to The University of Texas at Austin.

Student Center Fee at UH-Victoria—H.B. 2568  
by Representative Morrison—Senate Sponsor: Senator Kolkhorst

The University of Houston-Victoria (UHV) and its students want to construct a student center to provide amenities that are common to other universities, such as a central meeting place where everyone is welcome. UHV and its students feel that such amenities will enhance enrollment growth and help UHV become a destination university. This bill:

Authorizes the board of regents of the University of Houston System to impose a student center fee not exceeding $150 per student for each regular semester; $100 per student per summer session of 10 weeks or longer; or $50 per student for each summer session of less than 10 weeks in length.

Blinn College District Board of Trustees—H.B. 2621  
by Representatives Raney and Kacal—Senate Sponsor: Senator Schwertner

Blinn Junior College (BJC) has campuses in Brenham, Bryan, Schulenburg, and Sealy, but more than 70 percent of BJC students attend the campus in Bryan. Prior to the passage of H.B. 2621, the Blinn Junior College District (BJCD) had seven members on its board of trustees. However, students and staff at BJC's Bryan campus raised concerns that they had no representation on the BJCD board of trustees. This bill:

Is bracketed to add two members to BJCD's board of trustees from Brazos County by providing that they are appointed by the commissioners court of each county in which a branch campus with student
enrollment greater than 10,000 is located. Bryan Campus in Brazos County is the only campus with such an enrollment.

**Field of Study Curriculum—H.B. 2628**  
*by Representative Clardy—Senate Sponsor: Senator Garcia*

Fields of study help students transfer courses from two-year to four-year institutions by establishing a set of lower division courses within a discipline that must be applied to a bachelor's degree within that discipline. Fields of study are generally 12 to 18 semester credit hours that match the 42-hour Core Curriculum.

Programs of study are used in the Achieve Texas initiative through the Texas Education Agency. Programs of study are career and technical education programs designed to help students transition seamlessly from high school to college. This bill:

Requires the Texas Higher Education Coordinating Board to periodically review each field of study curriculum for alignment with student interest and industry needs. Establishes programs of study in statute and outlines their goals and functions.

**Adding Private IHEs to the Offense of Campus Trespass—H.B. 2629**  
*by Representatives Kacal et al.—Senate Sponsor: Senator Hancock*

While the punishment for trespassing on the grounds of a private institution of higher education (IHE) is a Class B misdemeanor under the Penal Code, the punishment for trespassing on a public IHE is a Class C misdemeanor under the Education Code. This bill:

Adds private IHEs to the offense of trespassing under the Education Code. In effect, the addition provides campus police at a private IHE with the discretion to ticket a trespasser with a Class C misdemeanor instead of detaining them for a Class B misdemeanor.

**Repealing Limits on Duel Credit Course Enrollment—H.B. 2812**  
*by Representative Springer et al.—Senate Sponsor: Senator Van Taylor*

The Texas Education Code permits a junior college to offer a course in which a high school student may earn credit toward high school and junior college graduation requirements. Such dual credit courses allow high school students to obtain credit at a junior college at a lower cost. The Education Code also prohibits a student from attending more than three courses at a junior college if the student's high school is outside the junior college's service area. This bill:

Repeals the limit of three dual credit courses. Authorizes a high school student to enroll in more than three dual credit courses at a junior college whether or not the student's high school district is in the junior college’s service area.
Establishing a Recreation Center Fee at UH Clear Lake—H.B. 2921
by Representative Paul—Senate Sponsor: Senator Larry Taylor

The University of Houston (UH) Clear Lake recently transitioned to a four-year university and student enrollment has risen sharply, creating additional demand for student services. Prior to the passage of H.B. 2921 students at UH Clear Lake passed a resolution that approved a fee-based recreation and wellness center building. This bill:

Authorizes the board of regents of the UH System to charge students at UH Clear Lake a recreation and wellness facility fee, contingent on the feed's approval by a majority vote of the student body.

Establishing a Pre-Nursing Curriculum Advisory Committee—H.B. 3078
by Representative Darby—Senate Sponsor: Senator Seliger

This bill creates the Uniform Pre-Nursing Curriculum Advisory Committee to develop and make recommendations to the legislature regarding the creation of a uniform pre-nursing curriculum for undergraduate professional nursing programs offered by institutions of higher education. The recommendations must specify the prerequisite courses a student must complete to qualify for consideration for admission to an undergraduate professional nursing program and the content for such courses. The bill requires the advisory committee to assess the prerequisite courses required for each undergraduate professional nursing program in Texas and the ability of a student to use course credit earned at one institution of higher education for admission to an undergraduate professional nursing program at another institution of higher education.

Pilot Program for Bachelor’s Degree in Dental Hygiene—H.B. 3348
by Representatives Clardy and Schaefer—Senate Sponsor: Senator Eltife

Stakeholders have observed a significant shortage in qualified dental hygienists in Northeast Texas. Because Tyler Junior College (TJC) offers courses for only part of a hygienist's necessary training and certification, hygienist students must transfer to institutions outside of the region to complete their training as there is no baccalaureate dental hygienist program at TJC or elsewhere in Northeast Texas. Many hygienists do not return to the region after completing their training, further exacerbating the shortage. This bill:

Requires the Texas Higher Education Coordinating Board (THECB) to establish a pilot baccalaureate dental hygienist program at junior colleges that meet certain criteria. These criteria are bracketed to exclusively include TJC.

Requires THECB to report to the legislature on the feasibility and effectiveness of baccalaureate dental hygienist programs. Requires THECB to recommend that junior-level and senior-level courses offered in a baccalaureate hygienist programs receive the same state support as other courses offered by the college.
Establishing Privacy of Admissions Applications—H.B. 4046
by Representative Alvarado et al.—Senate Sponsor: Senator Ellis

H.B. 4046 is the student information confidentiality bill that was filed in response to the controversial records requests made by University of Texas System Regent Wallace Hall Jr. to the University of Texas at Austin as part of an investigation into alleged improper admissions activity at that campus.

Advocates contend that state public information law provides access to public information with certain exceptions but that statute does not specify what constitutes a student record. Advocates also have expressed concern that a gap in privacy coverage exists under certain federal law that applies to individuals who apply for admission but do not enroll, constituting a privacy concern for many prospective students. This bill:

Provides that student record information is confidential if it is information in a student record at an educational institution funded wholly or partly by state revenue, except for information that is authorized by federal law.

Authorizes an educational institution to redact such confidential information from disclosure as public information under the state public information law.

Requires an educational institution to disclose information related to an applicant's application for admission that was provided to the institution by the applicant, if requested by the applicant or applicant's guardian.

Enhancing Graduate Medical Education in Texas—S.B. 18
by Senator Nelson et al.—House Sponsor: Representative Zerwas

The legislature made significant progress last session in addressing health care workforce needs by expanding graduate medical education (GME) in order to keep Texas medical school graduates in Texas. The need for additional residency slots is increasing due to the growing population, higher numbers of medical school graduates, and the establishment of new medical schools in Texas. This bill:


Adds Section 58A.002 (Permanent Fund Supporting Graduate Medical Education) to the Education Code. Defines "trust company" as the Texas Treasury Safekeeping Trust Company. Creates the permanent fund supporting graduate medical education, and authorizes the trust company to administer the fund. Authorizes the trust company to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain. Authorizes a public or private institution of higher education or any entity as provided by this section to solicit and accept gifts and grants to be deposited to the credit of the fund.

Authorizes the Texas Higher Education Coordinating Board (THECB), under Section 58A.003 (Reduction in Funding), Education Code, to limit or withhold funding from a grant recipient that does not comply with
reporting requirements or that uses grant funds for a purpose not authorized by this chapter for the grant awarded. Requires the board to seek reimbursement with respect to any grant funds that are not used for any authorized purposes.

Requires THECB, under Section 58A.022 (Graduate Medical Education Planning and Partnership Grants), Education Code, to award one-time graduate medical education planning and partnership grants to hospitals, medical schools, and community-based, ambulatory patient care centers located in this state that seek to develop new graduate medical education programs with first-year residency positions. Requires THECB to consider the graduate medical education planning and partnership grants on a competitive basis according to criteria adopted by the board. Authorizes a hospital, medical school, or community-based, ambulatory patient care center to partner with an existing graduate medical education program or sponsoring institution for purposes of planning a new graduate medical education program using grant funds awarded under this section.

Requires THECB, under Section 58A.024 (Grants for Program Expansion or New Program), Education Code, to award grants to enable new or existing graduate medical education programs to increase the number of first-year residency positions.

Requires THECB, under Section 58A.0245 (Critical Shortage Levels), Education Code, to prioritize the awarding of new grants to medical specialties determined by the board to be at critical shortage levels under the criteria set forth.

Adds Section 105.009 (Research Regarding Graduate Medical Education System), Health and Safety Code, to require the comprehensive health professions resource center to conduct research on the topics set forth.

Amends Section 2203.451 (Transfer of Assets), Insurance Code, to require the Texas Department of Insurance to complete an actuarial study to determine the amount of assets necessary to cover the claim and administration costs along with other costs of the Medical Liability Joint Underwriting Association. Requires the commissioner of insurance to suspend the ability of the Medical Liability Joint Underwriting Association to issue new insurance policies.

Training for the Governing Board of a Higher Education Institution—S.B. 24
by Senators Zaffirini and West—House Sponsor: Representative Zerwas

Current law requires regents of institutions of higher education to complete a training course developed by the Texas Higher Education Coordinating Board (THECB) within the regent's first two years of service. The purpose of this legislation is to expand and enhance the training required for the members of governing boards of institutions of higher education in Texas. This bill:

Requires that the training be completed during the regent's first year. Expands the training to include ethics, the limitations of the powers of governing boards, and the requirements of the federal Family Educational Rights and Privacy Act of 1974 (FERPA).

Requires THECB to develop an intensive short orientation course offered online and required to be completed by new regents before they vote on budgetary and personnel matters. Provides that the
orientation course must include information on best practices in matters relating to: transparency, accountability, and efficiency; the manner in which governing boards and administrators develop and implement major policy decisions; and ethics, conflicts of interests, and the proper role of a board member.

Requires THECB to document a regent's compliance with the training requirements.

**Online Broadcast of Open Meetings of Institutions of Higher Education—S.B. 27**

*by Senator Zaffirini—House Sponsor: Representative Howard*

Current Texas law does not require live broadcast over the Internet of open conference call meetings of the governing board of an institution of higher education. For members of the public to access an open conference call meeting of a governing board they must be physically present in the board's conference room at the university system office. This requirement places an undue burden on members of the public wishing to access open conference call meetings, and it is inconsistent with existing law that requires online broadcast of face-to-face board of regents meetings that are open to the public. This bill:

Requires that each part of the telephone conference call meeting of a governing board of an institution of higher education that is required to be open to the public be broadcast over the Internet and recorded and made available to the public in an online archive located on the Internet website of the institution of higher education.

**Participation of Persons with IDDs at Institutions of Higher Education—S.B. 37**

*by Senators Zaffirini and West—House Sponsor: Representative Naishtat*

It is reported that 65 percent of all jobs will require some form of postsecondary education or training by the year 2020. The employment rate of working-age persons with intellectual and developmental disabilities (IDDs) is roughly half of that for persons without such disabilities. In addition to these dismal statistics, Texas ranks last among states offering post-secondary educational opportunities for persons with IDDs, and only six institutions of higher education in Texas offer these opportunities. Gathering data on these programs would allow the Texas Higher Education Coordinating Board (THECB) to coordinate efforts more effectively. This bill:

Requires the THECB to collect and maintain data relating to undergraduate and graduate level participation of persons with IDDs at institutions of higher education, including data regarding applications for admission, admissions, retention, graduation, and professional licensing, and to conduct an ongoing study of such data to analyze factors affecting the participation of persons with IDDs at institutions of higher education.

Requires THECB to conduct an ongoing study on the recruitment of persons with IDDs at institutions of higher education, and that the study identify previously made recruitment efforts, limitations on recruitment, and possible methods for recruitment. Requires THECB, not later than November 1 of each even-numbered year, to submit to the governor and members of the legislature a report on the results of the study and any recommendations for legislative or other action.

Requires each institution of higher education to submit any information requested by THECB as necessary to conduct the study.
Requires THECB to adopt rules as necessary to conduct the study in a manner that ensures compliance with federal law regarding confidentiality of student medical or educational information.

**Student Members of State University or University System Board of Regents—S.B. 42**

*by Senator Zaffirini—House Sponsor: Representative Sheffield*

Section 51.355, Education Code, provides that "the chancellor of each university system shall develop a uniform application form to be used . . . to solicit applicants for the position of student regent." The student government of each institution in the system solicits and receives applications using the form and recommends five applicants to the chancellor. The statute provides that, "from among those applicants," the chancellor "shall select two or more" to recommend to the governor. Despite the clarity of the existing statutory language, there have been scattered reports of student regents being appointed after applying not to their student governments, as required by statute, but directly to the governor, and some persons have misconstrued the law not to prohibit such direct applications to the governor. This bill:

Amends various sections of the Texas Education Code relating to the process by which the governor may appoint a student regent to clarify that submission of the uniform application to the student government is a requirement for eligibility to serve as a student regent. Prohibits the governor from appointing a student member who did not submit an application to the student government as required by statute.

**Matching Grants for Research at Institutions of Higher Education—S.B. 44**

*by Senator Zaffirini—House Sponsor: Representative Howard*

Current law is silent as to whether private gifts made to institutions of higher education to support undergraduate research are eligible for matching funds under Texas Research Incentive Program (TRIP), and the Texas Higher Education Coordinating Board has interpreted this silence to mean that they are not. This interpretation is contrary to the original intent of the law and unduly restricts access to these funds by programs that could benefit from them. This bill:

Includes undergraduate research among the accepted purposes of enhancing research activities for which an institution may accept gifts or endowments from private sources and be entitled to receive a matching grant.

**Campus Police Departments at Private Institutions of Higher Education—S.B. 308**

*by Senators Whitmire and Ellis—House Sponsor: Representative Coleman*

Section 51.212 (Peace Officers at Private Institutions), Education Code, authorizes the governing board of a private institution of higher education to employ and commission peace officers. A private university's campus police department must be licensed by the Texas Commission on Law Enforcement and is granted all of the authority and powers vested in Texas peace officers. Some private university campus police departments have declined to produce arrest records and documents related to those arrests. A public police department would be required to release this information under Chapter 552 (Public Information), Government Code, but private university campus police departments assert that they are not government entities, and therefore are not subject to Chapter 552. This bill:
Provides that a campus police department of a private institution of higher education is a law enforcement agency and a governmental body for purposes of Chapter 552, Government Code, only with respect to information relating solely to law enforcement activities.

**The University of Texas Rio Grande Valley—S.B. 317**  
*by Senator Hinojosa et al.—House Sponsor: Representative Muñoz, Jr.*

S.B. 24, 83rd Legislature, Regular Session, 2013, created a new university in South Texas within The University of Texas System. The language in that bill did not include the official name of the institution, as it had not yet been determined. It instead used indirect language to refer to the new institution. This bill:

Amends the Education Code to change references to "a university to be established in south Texas" to The University of Texas Rio Grande Valley.

**School Marshals for Public Junior Colleges—S.B. 386**  
*by Senators Van Taylor and Bettencourt—House Sponsor: Representative Villalba*

In 2013, the legislature authorized the board of trustees of a public school district or the governing body of an open-enrollment charter school to create a school marshal program, but did not explicitly authorize public junior colleges to establish such a program. The junior college community has expressed a growing interest in having access to such a program as an alternative to the expensive measures of creating their own police department or hiring private security. This bill:

Extends the authority to establish a school marshal program to include public junior colleges.  
Authorizes the governing board of a public junior college to appoint one or more school marshals.

Authorizes a school marshal appointed by the governing board of a public junior college to carry or possess a handgun on the physical premises of a public junior college campus, but only in the manner provided by written regulations adopted by the governing board of the public junior college.

Provides that the identity of a school marshal appointed by the public junior college is confidential, with certain exceptions.

Requires the governing board of the public junior college to provide a parent or guardian written notice indicating whether any employee of the public junior college is currently appointed a school marshal if the parent or guardian of a student enrolled at a public junior college inquires in writing.

**Minimum Score Requirement for College-Level Examination Program—S.B. 453**  
*by Senator Seliger—House Sponsor: Representative Clardy*

It has been asserted that the minimum score that a student must achieve on an examination administered through the College-Level Examination Program in order to receive credit for a subject needs to be modified. This bill:
Lowers the minimum score from 60 to 50 that a student in grade level six or above must score on an examination administered through the College-Level Examination Program to earn credit for a subject.

**Service Areas of Certain Junior College Districts—S.B. 495**  
*by Senator Watson et al.—House Sponsor: Representative Doug Miller*

The Central Texas College District and the Victoria College District have requested certain changes with regard to their service areas in order to increase efficiency in delivering higher education in their regions. This bill:

Transfers two counties from the Austin Community College District service area to the service areas of two nearby community colleges by transferring Gillespie County to the Central Texas College District service area and the portion of Gonzales County that overlaps the Nixon-Smiley Consolidated Independent School District to the Victoria College District.

**Student Centers Fee at Texas Woman's University—S.B. 596**  
*by Senator Estes—House Sponsor: Representative Crownover*

Enrollment at Texas Woman's University has recently experienced dramatic growth, which has put a strain on the university's resources and infrastructure. The current student union does not have the capacity to properly serve the student body and needs to be replaced in order to accommodate current students and future growth. This bill:

Increases the cap on the student centers fee that the board of regents (board) of Texas Woman's University is authorized to collect from $40 to $75 for the long session and from $20 to $35 for the summer session.

Requires that revenue from the fee be deposited to the credit of an account known as the "Texas Woman's University Student Center Fee Account" under the control of the university's student fee advisory committee (committee).

Requires the committee to annually submit to the president of the university its recommendation for any change to the amount of the fee and a complete and itemized budget for the student center together with a complete report of all student center activities conducted during the past year and all expenditures made in connection with those activities.

Requires the president to submit the budget to the board as part of the university's institutional budget and authorizes the board to make changes in the budget that the board determines are necessary.

Authorizes the board to increase the amount of the fee for a semester or summer session to an amount that does not exceed $150 if the increase is approved by a majority vote of those students participating in a general election called for that purpose. Sets forth requirements regarding such a fee increase.
The 83rd Legislature established the Math and Science Scholars Loan Repayment Program and the mathematics and science teacher investment fund. This program is designed to assist Texas teachers in repaying higher education loan debt if they choose to teach math or science in a school district identified as a Title I school. Currently, although the mathematics and science teacher investment fund may receive and collect gifts, grants, and other donations, amounts appropriated by the legislature cannot be used to support the fund. This bill:

Repeals the prohibition on the legislature appropriating general revenue to the mathematics and science teacher investment fund for the Math and Science Scholars Loan Repayment Program.

Changes the eligibility requirements for loan repayment assistance by replacing the requirement that a person be enrolled in an accredited educator certification program with a requirement that a person be teaching under a probationary teaching certificate.

Current law relating to the Texas Tech University System and its board of regents (board) contains some unnecessary provisions and archaic language and would benefit from reorganization, particularly with regard to the powers and duties of the board with regard to the component institutions. This bill:

Authorizes the board to accept, retain in depositories of its choosing, and administer, on terms and conditions acceptable to the board, gifts, grants, or donations of any kind, from any source to the extent not prohibited by state or federal law, for use by the system or any of the system's component institutions.

Replaces references to the university in provisions relating to the university system's governance, powers, and duties with references to the university system or the university system and its component institutions, as applicable.

Expands the authority of the board to purchase a house or purchase land and construct a house suitable for the residence of the Texas Tech University president to include the purchase of a house or land on which to construct a house suitable for the residence of the chancellor of the university system or the president of any component university.

Authorizes the board to establish a history, science, and art museum, rather than authorizing the board to rent, lease, or convey a part of the Texas Tech University campus to the City of Lubbock for the purpose of building and maintaining a history, science, and art museum and to rent or lease a building or part of a building to the city for the purpose of maintaining a history and science museum.

Clarifies provisions regarding mineral leases and disposition of proceeds by removing the branches and divisions of the university from purposes for which money in the Texas Tech University special mineral fund may be used.
Entitles an eligible employee of Texas Tech University System Administration or the Texas Tech University Health Sciences Center at El Paso to participate in the workers' compensation program for state employees and establishes that the university system administration and the El Paso health sciences center are state agencies for purposes of the workers' compensation program and are required to act in the capacity of employers.

**THECB Study of Off-Campus Employment—S.B. 947**

*by Senator Zaffirini et al.—House Sponsor: Representative Howard*

The Texas college work-study program provides eligible, financially needy students with jobs to help enable them to attend public or private institutions of higher education. Employers provide part-time employment to work-study students and pay a certain amount of the student's wages. Although work-study placements funded through the Texas college work-study program are primarily on-campus positions, encouraging institutions to collaborate with off-campus businesses could help provide more work-study placements that are career-relevant. Texas could be leveraging its investment in college work-study funds to create off-campus work-study positions as a way to provide meaningful work experience, especially for low-income, non-traditional students enrolled in public two-year institutions. These students would be better served by work placements in relevant fields that could provide the basis for employment after earning an associate degree or other certificate.

It is not clear why the current Texas college work-study program is not funding off-campus career-focused placements, despite such being authorized by statute. Further study could reveal potential challenges and offer solutions to help improve the program’s outcomes, as well as help identify appropriate community colleges that show strong potential for piloting a private-sector work-study partnerships. The study should be able to determine if such partnerships lead to improved outcomes as compared to the current on-campus program. This can be measured by higher graduation rates, increased employment within the field of study for student participants, and an increase in the number of students taking advantage of the program. This bill:

Requires the Texas Higher Education Coordinating Board (THECB) to conduct a study to examine the feasibility of providing employment positions located off-campus through the Texas college work-study program.

Requires that the study identify:

- best practices for developing partnerships with employers to provide off-campus employment positions through the work-study program, including best practices learned from other apprenticeship, internship, or mentorship programs in this state or from similar programs in other states;
- any careers or industries that are well-suited for providing off-campus employment positions through the work-study program;
- current barriers that public junior colleges face in developing partnerships with employers to provide off-campus employment positions through the work-study program, including any staffing needs or limitations on the outreach capabilities of those colleges; and
• any public junior colleges that demonstrate strong potential for successful participation in a pilot program to develop partnerships with employers to provide off-campus employment positions through the work-study program.

Requires THECB to submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing legislative committees with primary jurisdiction over higher education a report on the results of the study and any recommendations for legislative or other action not later than December 1, 2016.

Charter Schools Created by Institutions of Higher Education—S.B. 955
by Senator Schwertner—House Sponsor: Representatives Rick Miller and Shaheen

Currently, universities are authorized to operate a charter school within the same county as their campus. These charter schools are required to use innovative teaching methods and must have measurable student outcome goals. There are currently five universities that operate charter schools. This bill:

Authorizes the commissioner of education (commissioner) to grant a charter on the application of certain entities, including a public senior college or university, for an open-enrollment charter school to operate on the campus of the public senior college or university or, subject to the provisions of this bill, at another location in any county in this state.

Requires the commissioner, in evaluating an application so submitted for a charter to operate an open-enrollment charter school in a county other than the county in which the campus of the applicant is located, to consider the locations of existing open-enrollment charter schools, as appropriate, to avoid duplication of services in the area in which the applicant proposes to operate the school and the need of the community in the area in which the applicant proposes to operate the school to have an additional open-enrollment charter school.

Programs Offered Jointly by Junior Colleges and School Districts—S.B. 1004
by Senator Bettencourt—House Sponsor: Representative Senfronia Thompson

Certain independent school districts, including the Houston Independent School District (HISD) and other school districts in Harris County and surrounding counties, are not permitted to contract with any of the public junior college districts in the region to offer dual credit programs to provide students with expanded program choices and more opportunities to earn college credit and career training. Under current law, HISD can only work with another public junior college system if the chancellor at Houston Community College (HCC) signs off on a state waiver of service, commonly considered the “right of first refusal.” This bill:

Amends the Education Code to authorize a public junior college with a service area located wholly or partly in Harris County or in a county adjacent to Harris County to enter into an articulation agreement with any school district located wholly or partly in that county for the provision on the public junior college campus of a dropout recovery program for certain students.
Requires a public junior college with a service area located in Harris County or in a county adjacent to Harris County to enter into an agreement with each school district located wholly or partly in that county to offer one or more courses for joint high school and junior college credit. Authorizes a student enrolled in such a school district to enroll in a course at any junior college that has entered into an agreement with the district to offer the course. Exempts a student who seeks to enroll in such a course from the statutory prohibition against a student enrolling in more than three courses for joint credit at a junior college if the junior college does not have a service area that includes the student's high school, beginning with the 2016 spring semester.

Provides that a public junior college's authority to offer a course within the service area of another public junior college conditioned on certain criteria being met does not apply to a course offered by a public junior college with a service area located wholly or partly in Harris County for high school students enrolled in a school district located in Harris County.

Authorizes the governing board of a junior college district located wholly or partly in Harris County or in a county adjacent to Harris County to contract to provide remedial programs for secondary school students with the governing board of any independent school district located in Harris County.

T-STEM Challenge Scholarship Program—S.B. 1066
by Senators Zaffirini and Menéndez—House Sponsor: Representative Clardy

The Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program provides financial awards to students in STEM programs at certain public junior colleges and public technical institutes. To maintain eligibility to participate in the program, an institution, beginning in the second year after implementation, must demonstrate to the Texas Higher Education Coordinating Board (THECB) that at least 70 percent of the institution's T-STEM scholarship recipients are either employed in a STEM field or enrolled in an upper-division program leading to a STEM baccalaureate degree within three months after graduating. However, this requirement has proved to be unduly burdensome. The three-month requirement is unrealistic, since spring graduates who enroll in upper-division classes do not appear on universities’ enrollment lists until October—more than three months after graduation—making it essentially impossible for a T-STEM-participating college or institute to establish qualifying upper-division enrollment in the time allowed by statute. Similarly, the Texas Workforce Commission compiles employment data by industry, not field, making it difficult to or impossible for an institution to demonstrate field-specific employment.

To ameliorate some of these practical difficulties, THECB recommends amending the program's enabling legislation to provide that institutions may demonstrate continuing eligibility in the third year following implementation, so that institutions will have adequate time to gather all the relevant data, and that they be allowed to demonstrate employment without regard to a particular field. This bill:

Revises the eligibility requirements to require that a public institution of higher education demonstrate to THECB that at least 70 percent of the institution’s T-STEM Challenge Scholarship recipients are employed or enrolled in courses leading to a certificate, associate, or bachelor's degree in a STEM field within 12 months of receipt of a scholarship, rather than within three months of graduation, beginning with the third year, rather than the second year, following implementation of a T-STEM Challenge Scholarship program.
Multidisciplinary Studies Associate Degree Program—S.B. 1189
by Senator Seliger—House Sponsor: Representative Zerwas

The Texas Higher Education Coordinating Board (THECB) is required to encourage the transferability of lower-division course credit among institutions. To that end, public junior colleges should offer a multidisciplinary studies associate degree program in which students take the college's core curriculum and certain additional courses tailored to the student's intended transfer to a four-year college or university. This bill:

Requires the governing board of each public junior college district to establish a multidisciplinary studies associate degree program (program) at each junior college in the district.

Provides that such a program must require a student to successfully complete the junior college's core curriculum, followed by courses selected by the student in the student's degree plan with the assistance of an academic advisor.

Requires that the degree plan:
- account for all remaining credit hours required for the completion of the multidisciplinary studies associate degree program; and
- emphasize:
  - the student's transition to a particular four-year college or university; and
  - preparations for the student's intended field of study or major at the four-year college or university.

Requires THECB to adopt rules as necessary for the administration of the program, including rules ensuring that a multidisciplinary studies associate degree program is established at each public junior college and ensuring that the common application form contain a description of multidisciplinary studies associate degree programs so established.

Allocation of Higher Education Fund—S.B. 1191
by Senator Seliger et al.—House Sponsor: Representative Crownover

The higher education fund (HEF) was created by constitutional amendment as a counterpart to the permanent university fund (PUF) for Texas public institutions of higher education not eligible to receive funds from the PUF. The legislature is required to review the HEF formula allocation every 10 years and is authorized to adjust the amount and the allocation of the constitutional appropriation every five years, provided that there is a two-thirds majority vote and provided that the reallocation would not impair any debt service obligated on HEF bonds or notes. The annual distribution of HEF appropriations is set forth in Section 62.021, Education Code. This bill:

Reallocates the higher education fund (HEF) as required by Article 7 (Education), Section 17 (Colleges and Universities; Appropriations and Funding), of the Texas Constitution. Authorizes an increase in the funding allocated to the HEF.
Reallocates HEF appropriations between eligible recipient institutions in fiscal year 2016 and increases the annual constitutional appropriation for the HEF, based on recommendations provided by the Texas Higher Education Coordinating Board.

Provides that the allocation of funds is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity.

Sets forth certain annual amounts allocated by the formula to certain institutions.

**Definition of Medical Schools for Residency Programs—S.B. 1466**
by Senators Watson and Hinojosa—House Sponsor: Representative Clardy

Section 61.501 (Definitions), Education Code, defines "medical school" for the purposes of medical residency programs. By 2017, several new medical education programs will begin operation in Texas. S.B. 1466 amends the definition to include new medical education programs in Texas and to update the names of existing programs. This bill:

Redefines "medical school" for the Family Practice Residency Program and Resident Physician Expansion Grant Program to include the medical schools at The University of Texas at Austin, The University of Texas Rio Grande Valley, and The University of Texas Health Science Center at Tyler.

**Reciprocity Agreements for Postsecondary Distance Learning Courses—S.B. 1470**
by Senator Watson—House Sponsor: Representative Raney

Institutions of higher education based in Texas have to seek authority from other states in order to offer distance education or online courses and programs across state lines. The same is true of institutions in other states that wish to offer online courses and programs in Texas. This process is often costly and time-consuming. This bill:

Authorizes the Texas Higher Education Coordinating Board (THECB), on behalf of the state, to enter into a state authorization reciprocity agreement (SARA) among states, districts, and territories regarding the delivery of postsecondary distance education that establishes comparable standards for the provision of distance education by degree-granting postsecondary educational institutions in each of the states, districts, or territories covered by the agreement to students of the other states, districts, or territories covered under the agreement. Requires THECB to apply to an appropriate organization for that purpose.

Requires THECB to establish an application and approval process and maintain a dispute resolution procedure for complaints regarding participating institutions.

Requires THECB to take appropriate action to terminate an institution's operation within this state if THECB obtains evidence that the institution established outside this state that is providing courses within this state under a state authorization reciprocity agreement is in apparent violation of the agreement or rules adopted to administer the agreement. Requires THECB to adopt rules to administer these provisions.
Requires THECB to develop and submit to the Southern Regional Education Board or other appropriate organization a plan and application for entering into a state authorization reciprocity agreement not later than September 1, 2016.

**Nontraditional Students in Institutions of Higher Education—S.B. 1543**

*by Senator Perry et al.—House Sponsor: Representative Frank*

Section 51.9241 (Admission of Student With Nontraditional Secondary Education), Education Code, requires an institution of higher education, because the State of Texas considers successful completion of a nontraditional secondary education to be equivalent to graduation from a public high school, to treat an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education according to the same general standards, including specific standardized testing score requirements, as other applicants for undergraduate admission who have graduated from a public high school.

Due to a lack of clarity in the statute regarding class rank, some institutions of higher education have assigned nontraditional students a default class rank below 50 percent. The result of this is that otherwise qualified students are given much higher test score requirements than their peers who have graduated from a traditional high school. This bill:

Requires an institution, if the institution of higher education in its undergraduate admission review process sorts applicants by high school graduating class rank, to place any applicant who presents evidence that the applicant has successfully completed a nontraditional secondary education that does not include a high school graduating class ranking at the average high school graduating class rank of undergraduate applicants to the institution who have equivalent standardized testing scores as the applicant.

**Administration of Certificates of Authorization and Authority—S.B. 1655 [VETOED]**

*by Senator West—House Sponsor: Representative Morrison*

Prior to the revision of applicable rules in 19 T.A.C. Chapter 7 (Degree-Granting Colleges and Universities Other Than Texas Public Institutions), the Texas Higher Education Coordinating Board (THECB) staff collected funds regularly from the private postsecondary institutions operating under certificates of authority. With the recognition of additional national accreditors, the vast majority of institutions now operate under a certificate of authorization. THECB is not authorized to collect fees from certificate of authorization institutions, and has had to absorb the cost of operating the approval processes for these institutions under general revenue funds. This has resulted in an inordinate and uncompensated workload, and reduced resources for other THECB responsibilities.

Institutions have expressed the need for a repository of standardized transcripts in the event that a career college goes out of business or withdraws from the state. This bill:

Requires THECB by rule to establish a fee to be charged by THECB to cover all or a portion of THECB’s costs associated with: issuing, maintaining, or revising a certificate of authorization or certificate of authority; and maintaining a repository for student transcripts from closed institutions that were authorized.
to operate under a certificate of authorization or certificate of authority. Sets forth fee caps based on certain criteria.

Requires THECB to maintain a repository for student transcripts from closed institutions that were authorized to operate under a certificate of authorization or certificate of authority using fees received by THECB from institutions operating under those certificates as part of the institutions' initial and ongoing authorization to operate. Authorizes THECB, if those fees are not sufficient to cover the cost of maintaining the repository, to discontinue its maintenance of the repository, unless adequate state funding is provided for that maintenance. Authorizes THECB to charge a fee to students requesting transcript copies maintained in the repository, not to exceed the cost of retrieving, reproducing, and sending the transcript copies. Requires that a closed or closing institution provide its student transcript records to THECB in the format specified by THECB for inclusion in the repository.

Release of Student Academic Information—S.B. 1714
by Senator Zaffirini—House Sponsor: Representative Howard

Higher education students regularly transfer credit hours between two-year and four-year institutions of higher education. Many of these students, after transferring, earn enough credits at the four-year institution to earn an associate's degree at their original two-year institutions. Current state law requires four-year institutions to request authorization to release a student's transcript from any student who transferred from a two-year institution with at least 30 credit hours and who earns a cumulative total of at least 66 credit hours. On receipt of authorization, the four-year institutions must release the student's transcript information to the two-year institution. The two-year institution then must review the transcript and award an associate's degree if the student has earned one.

While this "reverse-transfer" provision established in 2011 has helped students attain associate's degrees, the current procedures require each four-year institution to contact each potential reverse-transfer student for permission to release information and then release that information to each applicable two-year institution. Then the two-year institution must check for eligibility and subsequently award the student with an associate's degree. The amount of administrative effort required to comply with the provision could be lessened by a more automated process.

The National Student Clearinghouse is, among other things, a data exchange service offering applications that are designed to facilitate compliance with the Family Educational Rights and Privacy Act (FERPA), the Higher Education Act, and other applicable laws. The clearinghouse is developing, with the help of institutions like The University of Texas at Austin, a reverse-transfer automated data sharing exchange platform that would greatly increase the efficiency of reverse-transfer degree awards. This bill:

Authorizes an institution of higher education to request the submission of a signed consent form authorizing the institution to release academic course, grade, and credit information with each:

- application for undergraduate transfer admission to the institution, if the institution is a general academic teaching institution, to be used for the purposes of Section 61.833 (Credit Transfer for Associate Degree), Education Code; or
- request from a student for a release of the student's transcript by the institution.

Authorizes an institution of higher education to release of student information for such purposes through:
the National Student Clearinghouse; or
• a similar national electronic data sharing and exchange platform operated by an agent of the institution that meets nationally accepted standards, conventions, and practices.

Requires the institution, through the use of an electronic data sharing and exchange platform, to release the student's academic course, grade, and credit information to a lower-division institution of higher education that the student previously attended for the purpose of determining whether the student has earned the credits required for an associate degree awarded by the lower-division institution of higher education after a student who has submitted a consigned consent form completes a semester or term at a general academic teaching institution.

Requires each lower-division institution of higher education to annually produce a report recording the number of degrees thusly awarded by the institution in the previous academic year and requires each institution to make the report publicly available and submit the information to the reverse transfer data sharing platform.

Texas College Work-Study Program—S.B. 1750
by Senators West and Hinojosa—House Sponsor: Representative Murphy

The 71st Legislature created the Texas College Work-Study Program (TCWSP) in 1989. The program provides part-time jobs to students enrolled at Texas public and private institutions who demonstrate financial need. TCWSP allows academic institutions to partner with private-sector employers and requires for-profit employers to pay 50 percent of the student's salary. Nonprofits, such as universities and colleges, are required to match only 25 percent of the student's salary.

The 83rd Legislature increased funding for TCWSP by six percent for the 2014-2015 biennium, a total of $18 million, with $5 million allocated for the Work Study Mentorship program. The TCWSP priority is to encourage collaboration between academic institutions and businesses in order to promote degree plan-related career opportunities. However, in 2014, not one participating campus reported a partnership with an off-campus work-study position or private-sector work-study partnership.

The manner in which employers evaluate recent college graduates is undergoing a transformational change. In today's economy, earning a college degree does not ensure an automatic pathway to success. Employers today select from a much larger pool of recent college graduates with similar qualifications. During the hiring process, employers seek individuals who demonstrate aptitude and a strong work ethic. Private sector internships and post work experience are vital in this regard. This bill:

Requires each eligible institution to ensure that at least 20 percent but not more than 50 percent of the employment positions provided through the work-study program in an academic year are provided by eligible employers who are providing employment located off campus.

Requires the Texas Higher Education Coordinating Board to submit a biennial report on the work-study program.
Assessment Requirements of the Texas Success Initiative—S.B. 1776  
by Senator Menéndez—House Sponsor: Representative Guillen

A student who does not meet college readiness standards can be enrolled for a college preparatory course at their high school. Currently, a student who passes the college preparatory course with respect to the content area has one year before that grade expires and is exempt from assessment requirements under the Texas Success Initiative, which has a corresponding goal of assessing incoming undergraduate students' readiness to enroll in freshman-level coursework. The exemption applies only at the institution of higher education that partners with the school district in which the student is enrolled to provide the course.

Interested parties have asserted that students need more time to decide what they want to do regarding their future, and that, because certain college preparatory courses address college readiness up front, students who successfully complete them should be exempt from assessment requirements under the Texas Success Initiative for a longer period of time. This bill:

Makes the exemption effective for two years following a student's high school graduation date. Requires a student, as a condition of the exemption, to enroll in the student's first college-level course in the exempted content area in the student's first year of enrollment in an institution of higher education.

Requires the institution, if the student earns less than a C in the student's first college-level course in the exempted content area, to advise the student of non-course-based options for becoming college ready, such as tutoring or accelerated learning.

Requires the Texas Higher Education Coordinating Board to collect and analyze data regarding the effectiveness of college preparatory courses based on completion rates and to report its findings to all participating educational entities and the legislature.

Admission Factors of New Graduate and Professional Programs—S.B. 2031  
by Senator Watson et al.—House Sponsor: Representative Howard

Section 51.842 (Admission and Scholarship Factors for Graduate and Professional Programs), Education Code, provides requirements for admission and scholarship policies for graduate and professional programs, including medical schools. Section 51.842(d) requires that a new graduate or professional program publish its admissions and competitive scholarship criteria at least one year before receiving applications. However, the Liaison Committee on Medical Education (LCME), which provides accreditation for medical schools, prohibits an institution from publishing its admissions criteria until after the institution receives initial accreditation, which creates a conflict. This bill:

Authorizes a general academic teaching institution or medical and dental unit, notwithstanding Section 51.482(d) (requiring each general academic teaching institution or medical and dental unit to publish a description of the factors to be considered by the institution or unit in making admissions and competitive scholarship decisions and make the information available to the public, not later than one year before the date that applications for admissions and competitive scholarships are first considered for a graduate or professional program), Education Code, to delay publication of the factors to be considered in admissions decisions, if compliance with requirements of an accrediting agency effectively prevent the institution or unit...
from timely publishing the factors, but requires the institution or unit to publish the factors as soon as practicable when compliance with accrediting agency requirements permits.
Research demonstrates that children who participate in high quality prekindergarten programs are more successful academically. While there is well-established research identifying which indicators ensure that a prekindergarten program is considered high quality, current statute only addresses eligibility, reporting, and general curriculum requirements.

Many independent school districts in Texas prioritize and provide high quality prekindergarten programs on their own; however, these school districts are not provided additional funding to continue to build upon this investment. This bill:

Requires the commissioner of education (commissioner) to establish, by rule, a grant funding program under which funds are awarded to school districts and open-enrollment charter schools to implement a high quality prekindergarten grant program provided free of tuition or fees (prekindergarten program). Authorizes a school district to participate in and receive funding under such a program if the district meets all program standards required under the provisions of this bill.

Provides that a school district is eligible for half-day funding under the Foundation School Program for each student who satisfies certain eligibility requirements as set forth and who is enrolled in a prekindergarten program. Provides that a school district, in addition to such funding, is entitled to receive grant funding in an amount determined by the commissioner for each qualifying student in average daily attendance in a prekindergarten program. Prohibits the commissioner from establishing an amount of funding per qualifying student in attendance for the entire instructional period on a school day that exceeds $1,500. Provides that a school district that receives such additional funding may use the funding only to improve the quality of the district's prekindergarten programs. Prohibits the total amount of such additional funding distributed to school districts from exceeding $130 million for the state fiscal biennium ending August 31, 2017.

Requires a school district to select and implement a curriculum for a prekindergarten grant program that includes the prekindergarten guidelines established by TEA, measures the progress of students in meeting the recommended learning outcomes, and does not use national curriculum standards developed by the Common Core State Standards Initiative.

Requires a school district to develop and implement a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education. Requires that the family engagement plan be based on family engagement strategies. Requires TEA to collaborate with other state agencies, including the Health and Human Services Commission, that provide services for children from birth through five years of age to establish prioritized family engagement strategies to be included in a school district's family engagement plan. Provides that a parent-teacher organization, community group, or faith-based institution may submit to TEA recommendations regarding the establishment of family engagement strategies, and requires TEA, in establishing the family engagement strategies, to consider any received recommendations. Sets forth the requirements of the engagement strategies.

Requires a school district to select and implement appropriate methods for evaluating the district's prekindergarten program classes by measuring student progress and make data from the results of prekindergarten program evaluations available to parents. Provides that a school district may administer
diagnostic assessments to students in a prekindergarten program class to evaluate student progress but is prohibited from administering a state standardized assessment instrument. Requires that an assessment instrument administered to a prekindergarten program class be selected from a list of appropriate prekindergarten assessment instruments identified by the commissioner.

Requires the commissioner to evaluate the use and effectiveness of prekindergarten program funding in improving student learning. Requires the commissioner to identify effective instruction strategies implemented by school districts in the prekindergarten program. Requires the commissioner to deliver a report to the legislature containing the results of the evaluation beginning in 2018, not later than December 1 of each even-numbered year. Provides that this requirement expires December 31, 2024.

Authorizes a school district participating in the prekindergarten program to enter into a contract with an eligible private provider to provide services or equipment for the program. Requires the private provider to be licensed by and in good standing with the Department of Family and Protective Services (DFPS) to be eligible to contract with a school district to provide a prekindergarten program or part of a prekindergarten program. Sets forth certain requirements for the private provider.

Provides that a student to whom Section 42.003(a) (relating to students eligible to receive the benefits of the Foundation School Program), Education Code, does not apply is entitled to the benefits of the Foundation School Program if the student is enrolled in a prekindergarten class under Section 29.153 (Free Prekindergarten for Certain Children), Education Code, or Subchapter E-1 (High Quality Prekindergarten Grant Program), Chapter 29, Education Code.

Requires a school district that offers prekindergarten classes, including a high quality prekindergarten program class, to include certain information in the district's Public Education Information Management System (PEIMS) report. Sets forth the information to be included in the PEIMS report. Prohibits such information from being used for purposes of determining a district's accreditation or a campus or district performance rating. Requires the Texas Education Agency (TEA) to produce and make available to the public on the TEA Internet website annual district and campus-level reports containing information from the previous school year on early education in school districts and open-enrollment charter schools. Sets forth the requirements for such reports.

Requires TEA and DFPS to conduct a joint study to develop recommendations regarding optimal class sizes and student to teacher ratios for prekindergarten classes. Sets forth the criteria upon which TEA and DFPS are to base their recommendations. Requires TEA to submit a report to the legislature detailing TEA's findings not later than September 1, 2016.

Requires the commissioner to develop a prekindergarten teacher training course to be offered to prekindergarten teachers employed by a school district or open-enrollment charter school.

Authorizes the commissioner to adopt rules necessary to implement the provisions of this bill.
Information Printed on High School Diplomas—H.B. 181
by Representatives Bell and Krause—Senate Sponsor: Senators Kolkhorst and Van Taylor

Recent legislation mandated that a high school student's diploma and transcript include endorsements and performance acknowledgements earned by the student. School districts have expressed concern regarding the printing cost of individualized diplomas and the higher likelihood of printing errors on such diplomas. This bill:

Provides that a student may earn an endorsement on the student's transcript, rather than diploma and transcript, by successfully completing curriculum requirements for that endorsement adopted by the State Board of Education by rule.

Bilingual Education Teacher Certification—H.B. 218
by Representative Márquez et al.—Senate Sponsor: Senator Rodríguez

School districts across Texas are experiencing issues finding bilingual education educators. Current law requires a teacher assigned to a bilingual education program to be appropriately certified for bilingual education by the State Board for Educator Certification (SBEC), but falls short of specifying which bilingual education models are recommended. This bill:

Requires a teacher assigned to a bilingual education program using a transitional bilingual/early exit program model or a transitional bilingual/late exit program model to be appropriately certified for bilingual education by SBEC; and requires a teacher assigned to a bilingual education program using a dual language immersion/one-way or two-way program model to be appropriately certified by SBEC for bilingual education for the component of the program provided in a language other than English and bilingual education or English as a second language for the component of the program provided in English.

Provides that a school district that provides a bilingual education program using a dual language immersion/one-way or two-way program model may assign a teacher certified for bilingual education for the language other than English component of the program and a different teacher certified for bilingual education or English as a second language for the English language component.

Physical Education Curriculum for Students With Mental Disabilities—H.B. 440
by Representative Larry Gonzales et al.—Senate Sponsor: Senators Watson and Zaffirini

Currently, the State Board of Education (SBOE) is required to ensure that the physical education curriculum meets the needs of students who have a disability, chronic health problems, or certain other special needs. Interested parties contend that the law could be construed to mean that the curriculum adaptation necessary to meet the needs of such students is required only for students with a physical disability. This bill:

Requires SBOE, in identifying the essential knowledge and skills of physical education, to ensure that the curriculum meets the needs of students of all physical ability levels, including a student who has a chronic health problem or disability, including a student who is a person with a disability described under Section 29.003(b) (relating to providing that a student is eligible to participate in a school district's special education
program if the student meets certain criteria), Education Code, or that meets criteria developed by the Texas Education Agency in accordance with that section, or other special need that precludes that student from participating in regular physical education instruction, but who might be able to participate in physical education that is suitably adapted and, if applicable, included in the student's individualized education program.

**Dual Credit Courses in High School—H.B. 505**  
*by Representative Eddie Rodriguez et al.—Senate Sponsor: Senators Estes and Van Taylor*

High school students are currently unable to enroll in more than two dual credit courses per semester. Studies show that students enrolled in dual credit courses are more likely to complete high school and enroll in college. This bill:

Amends Section 28.009(b), Education Code, to prohibit the Texas Higher Education Coordinating Board from adopting any rule that would limit the number of dual credit courses or hours in a which a student may enroll while in high school or in a given semester or academic year.

**Prekindergarten Pilot Program—H.B. 731**  
*by Representative Lucio III—Senate Sponsor: Senator Lucio*

Owing to the benefits of prekindergarten programs, proponents say that there is a need for additional half-day prekindergarten funding for school districts, such as Cameron County's Brownsville Independent School District, among others. While some low-income students currently qualify for free state-funded prekindergarten, many other low-income families do not. This bill:

Requires the commissioner of education (commissioner), as a pilot program to enable the state to evaluate the benefit of providing additional funding at the prekindergarten level for low-income students, to provide prekindergarten funding in accordance with the provisions of this bill to a school district located in a county that borders the United Mexican States and the Gulf of Mexico.

Requires the commissioner to provide funding for a school district's prekindergarten program on a half-day basis for a number of low-income prekindergarten students equal to twice the number of students who received a high school diploma from the district during the preceding school year after three years of secondary school attendance as a result of participation in an early high school graduation program operated by the district.

Authorizes the commissioner to adopt rules necessary to implement the provisions of this bill.

**Assessment Instruments for Public School Students—H.B. 743**  
*by Representatives Huberty et al.—Senate Sponsor: Senators Seliger and West*

The length of state-administered standardized tests can be overly burdensome on a student, who should be given the opportunity to finish a test without facing pressure from peers who have already completed the test. This bill:
Requires that an assessment instrument, on the basis of empirical evidence, be determined to be valid and reliable by an entity that is independent of the Texas Education Agency (TEA) and of any other entity that developed the assessment instrument.

Requires that an assessment instrument be designed so that if administered to students in grades three through five, 85 percent of students will be able to complete the assessment instrument within 90 minutes, and if administered to students in grades six through eight, 85 percent of students will be able to complete the assessment instrument within 150 minutes.

Provides that the amount of time allowed for administration of an assessment instrument may not exceed eight hours, and the administration may occur on only one day.

Requires TEA to conduct a study regarding the essential knowledge and skills of the required curriculum identified by SBOE in order to evaluate:

- The number and scope of the essential knowledge and skills of each subject of the required curriculum under Section 28.002 (Required Curriculum), Education Code, with each essential knowledge or skill identified as a readiness or supporting standard, and whether the number or scope should be limited;
- the number and subjects of assessment instruments that are required to be administered to students in grades three through eight; and
- how assessment instruments assess standards essential for student success and whether the assessment instruments should also assess supporting standards, including analysis of the portion of the essential knowledge and skills capable of being accurately assessed, the appropriate skills that can be assessed within the testing parameters under current law, and how current standards compare to those parameters.

Requires TEA to provide reimbursement to a school district for all fees associated with the administration of the assessment instrument from funds appropriated for that purpose, rather than pay all fees associated with the administration of the assessment instrument from funds allotted under the Foundation School Program, and requires the commissioner of education to reduce the total amount of state funds allocated to each district from any source in the same manner described for a reduction in allotments under Section 42.253 (Distribution of Foundation School Fund), Education Code.

Requires TEA by rule to develop a comprehensive methodology for auditing and monitoring performance under contracts for services to develop or administer assessment instruments to verify compliance with contractual obligations.

Requires TEA to ensure that all new and renewed contracts include a provision that TEA or a designee of TEA may conduct periodic contract compliance reviews, without advance notice, to monitor vendor performance.
Purchase of Certain Insurance by Public School Districts—H.B. 744
by Representative Huberty—Senate Sponsor: Senator Creighton

Section 38.024 (Insurance Against Student Injuries), Education Code, permits a school district to purchase liability insurance for students who sustain bodily injuries “while training for or engaging in interschool athletic competition or while engaging in school-sponsored activities on a school campus.” However, there is no similar provision enabling school districts to purchase liability insurance for students who sustain bodily injuries while those students are engaging in school-sponsored activities outside of a school campus or while being transported to and from school campuses and such activities. This bill:

Authorizes the board of trustees of a school district to obtain insurance against bodily injuries sustained by students while training for or engaging in interschool athletic competition or while engaging in school-sponsored activities, rather than while engaging in such activities on a school campus.

Texas Academy of Leadership in the Humanities—H.B. 771
by Representative Deshotel—Senate Sponsor: Senator Creighton

The Texas Academy of Leadership in the Humanities (academy) at Lamar University provides academically gifted and highly motivated junior and senior high school students with a challenging university-level curriculum and allows students to complete high school graduation requirements while attending a public institution of higher education for academic credit. The academy is under-funded and operates under a tight budget with limited employees. This bill:

Provides that the academy is entitled to allotments from the Foundation School Program as if the academy were a school district without a tier one local share for purposes of Section 42.253 (Distribution of Foundation School Fund), Education Code, for each student enrolled in the academy.

Writing Assessment Method Pilot Program—H.B. 1164
by Representative VanDeaver et al.—Senate Sponsor: Senator Garcia

Many parents, students, and teachers across the state of Texas have expressed concerns with the writing components of our state assessments. The current writing assessments for grades four, seven, and English I and II end-of-course examinations call for a formulaic writing style that can be difficult to grade objectively and often do not demonstrate a student's mastery of the Texas Essential Knowledge and Skills (TEKS). This bill:

Requires the Texas Education Agency (TEA), in coordination with the entity that has been contracted to develop or implement assessment instruments, to conduct a study during the 2015-2016 school year to develop a writing assessment method as an alternative to certain current writing assessment instruments. Sets forth the criteria that the writing assessment method is required to assess. Requires TEA to establish such a pilot program to implement the writing assessment method during the 2016-2017 and 2017-2018 school years in certain school districts.

Sets forth the criteria for selection of the school districts to participate in the pilot program and the method of their participation.
Requires that a random sampling of scored student writing assessments, the size of which TEA is required to determine, be delivered to TEA. Requires TEA to prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a report covering the study of the development of the writing assessment method set forth not later than September 1, 2016. Requires TEA, not later than September 1 of each year in 2017 and 2018, to prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a report that evaluates the implementation and progress of the pilot program and makes recommendations regarding the continuation or expansion of the pilot program.

Requires TEA to adopt rules as necessary to administer the provisions of this bill.

**Applicability of Certain Laws to Charter Schools—H.B. 1170**

*by Representative Farney et al.—Senate Sponsor: Senator Lucio*

In order to control costs, school districts can enter into interlocal contracts and risk pools with neighboring localities. These arrangements strengthen the districts' bargaining positions for purchasing materials and contracting for services and dilute the unforeseen costs of insurance claims. Open-enrollment charter schools may not currently engage in similar arrangements, despite the fact that they also use public money. Without access to the same interlocal agreements and risk-sharing pools, public costs associated with charter schools will continue to rise. This bill:

Authors an open-enrollment charter school to elect to extend workers' compensation benefits to employees of the school through any method available to a political subdivision under Chapter 504 (Workers' Compensation Insurance Coverage for Employees of Political Subdivisions), Labor Code.

Provides that an open-enrollment charter school that elects to extend workers' compensation benefits is considered to be a political subdivision for the purposes of Chapter 504, Labor Code. Provides that an open-enrollment charter school that self-insures either individually or collectively under Chapter 504, Labor Code, is considered to be an insurance carrier for purposes of Subtitle A (Texas Workers' Compensation Act), Title 5 (Workers' Compensation), Labor Code.

Provides that an open-enrollment charter operated by a tax-exempt entity is not considered to be a political subdivision, local government, or local governmental entity unless the applicable statute specifically states that the statute applies to an open-enrollment charter school.

**Open-Enrollment Charter Schools Immunity and Liability Laws—H.B. 1171**

*by Representative Farney et al.—Senate Sponsor: Senator Lucio*

Currently, open-enrollment charter schools enjoy the same immunity from liability that public schools do; however, the law is less clear on the degree to which charters are immune from suit or subject to liability limits under the Texas Torts Claims Act. Recently, the Dallas Court of Appeals ruled that charters should be treated the same as public schools with regard to immunity from suit. Because this ruling only applies to
that court's jurisdiction, however, charter schools will continue to fight costly legal battles to dismiss suits
that should not have been filed in the first place. This bill:

Provides that, in matters related to the operation of an open-enrollment charter school, an open-enrollment
charter school or charter holder is immune from liability and suit to the same extent as a school district, and
the employees, volunteers, and members of the governing board of the open-enrollment charter school or
charter holder are immune from liability and suit to the same extent as school district employees,
volunteers, and district trustees.

Provides that an open-enrollment charter school is a governmental unit as defined by Section 101.001
(Definitions), Civil Practice and Remedies Code, and is subject to liability only as provided by Chapter 101
(Tort Claims), Civil Practice and Remedies Code, and only in the manner that liability is provided by that
chapter for a school district.

Provides that an open-enrollment charter school is a local government as defined by Section 102.001
(Definitions), Civil Practice and Remedies Code, and a payment on a tort claim must comply with Chapter
102 (Tort Claims Payments by Local Governments), Civil Practice and Remedies Code.

Provides that an open-enrollment charter school is a local governmental entity as defined by Section
271.151 (Definitions), Local Government Code, and is subject to liability on a contract as provided by
Subchapter I (Adjudication of Claims Arising under Written Contracts with Local Government Entities),
Chapter 271, Local Government Code, and only in the manner that liability is provided by that subchapter
for a school district.

Examination for Educator Certification Applicants—H.B. 1300
   by Representatives Capriglione and Fallon—Senate Sponsor: Senator Seliger

Section 21.0441 (Admission Requirements for Educator Preparation Programs), Education Code,
establishes admission requirements for educator preparation programs, including grade point average
(GPA) requirements. Programs may admit a certain percentage of students whose GPA is below the
required minimum under extraordinary circumstances. This bill:

Requires applicants to educator certification programs who have a GPA below the set minimum to take and
pass the state-mandated content examination before being admitted to an educator certification program.

Free or Reduced-Price Breakfast—H.B. 1305
   by Representatives Greg Bonnen and Paul—Senate Sponsor: Senator Larry Taylor

Current law has been interpreted to require a school district to participate in the federally funded national
school breakfast program and accept federal reimbursements even if the district has developed its own
self-sustaining program that does not require those reimbursements. One district, having developed its own
program at district high schools without federal funds, has been warned that failure to accept federal
reimbursement for all district campuses would render the district ineligible for reimbursement for district
campuses that still participate in the federal program. This bill:
Authorizes a school district that would otherwise be required to participate in the national school breakfast program to instead develop and implement a locally funded program to provide a free or reduced-price breakfast and lunch to all students in the school or schools eligible for the national program.

Amends the Education Code to change the calculation of the number of educationally disadvantaged students for purposes of calculating the compensatory education allotment within the Foundation School Program from averaging the best six months' enrollment in the National School Lunch Program for the preceding school year to averaging the best six months' number of students eligible for enrollment in the national school lunch program.

Authorizes the commissioner of education to determine the number of educationally disadvantaged students eligible for the compensatory education allotment, regardless of whether the campus is participating in the national school lunch program.

Authorizes a student receiving a full-time virtual education to be included in the determination of the number of educationally disadvantaged students in a district if the school district submits a plan to the commissioner detailing the enhanced services that will be provided to the students.

Applies beginning with the 2015-2016 school year.

Public Services Endorsement on Diplomas—H.B. 1430
by Representative Susan King—Senate Sponsor: Senator Zaffirini

Currently, a student may earn an endorsement on the student's high school diploma and transcript in a variety of categories, including public services. The public services endorsement requires coursework to prepare students for careers in health sciences, education, law enforcement, and culinary arts and hospitality. Mental health careers, however, are not included among the health science-related career pathways under the public services endorsement. As a result, a student who is interested in a health and science career may not know as much about the availability of mental health careers as they do about other health science careers. This bill:

Requires the Texas Education Agency to ensure that any information provided to students relating to health science careers includes information regarding mental health professions. Requires that the information, to the extent that the public services endorsement includes information on health science career pathways, include mental health careers as a possible pathway.

Includes mental health among the endorsements that a student may earn on the student's diploma and transcript.

Career-Oriented Foreign Language Program in Public Schools—H.B. 1431
by Representative Susan King—Senate Sponsor: Senator Lucio

As Texas becomes more ethnically and linguistically diverse, it is important that young Texans entering the workforce are able to communicate in multiple languages. However, advanced foreign language programs
that are currently offered in high schools are general in nature and not tailored to industry-specific outcomes. This bill:

Directs the Texas Education Agency to develop advanced foreign language courses that provide students with the terminology to be functionally bilingual in their chosen field of work. Schools will have the option to provide students with instruction in industry-related terminology that prepares the student to communicate in a language other than English in a specific professional, business, or industry environment.

**Instructional Materials Fund and Allotment—H.B. 1474**  
_by Representative VanDeaver et al.—Senate Sponsor: Senator Eltife_

While recent legislation created the instructional materials allotment, it has been reported that the legislation had unintended consequences, such as splitting the distribution of the allotment between the first and second year of each biennium. There are concerns that this split creates many issues for school districts purchasing instructional materials as they face new textbook proclamations and associated costs that can exceed the yearly appropriated amounts. This bill:

Provides that a school district is entitled to an allotment each biennium from the state instructional materials fund for each student enrolled in the district on a date during the last year of the preceding biennium specified by the commissioner of education (commissioner) and use thereof to purchase certain instructional materials. Requires the commissioner to deposit in the account for each district, in the first year of each biennium, the amount of the district's instructional materials allotment.

Requires the State Board of Education each biennium to set aside an amount equal to 50 percent of the distribution for that biennium from the permanent school fund to the available school fund to be placed in the state instructional materials fund.

Requires the Office of the Comptroller of Public Accounts of the State of Texas to make transfers from the general revenue fund to the foundation school fund in a certain amount in installments as necessary to comply with Section 42.259 (Foundation School Fund Transfers), Education Code, and to permit the Texas Education Agency to make temporary transfers from the foundation school fund for payment of the instructional materials allotment. Sets forth requirements for the installments.

**Services Available for Homeless Students—H.B. 1559**  
_by Representatives Parker and Minjarez—Senate Sponsor: Senator Larry Taylor_

While some local programs and charitable organizations that assist homeless students have historically tried to increase awareness in the student population through setting up informational tables at local schools, certain parties contend that there should be a more effective method of increasing awareness with a greater likelihood of coming to the attention of homeless students. This bill:

Requires each school that maintains an Internet website to post on the website information regarding local programs and services, available to assist homeless students.
Authorizes a representative of a local program or service available to assist homeless students to request to have information concerning the program or service posted on a school's website. Authorizes a school to determine the information to be posted on the school's website and provides that the school is not required to post information as requested by the representative.

Provides that a school district is not liable for any harm to a student that results in connection with a local program or service referred to on the website of the district school.

Provides that this bill does not apply to a school within a school district that has an enrollment of fewer than 3,000 students and is primarily located in a county with a population of less than 50,000.

Reducing Required School District Paperwork—H.B. 1706
by Representative VanDeaver et al.—Senate Sponsor: Senator Burton

Over the last decade, the legislature has directed the Texas Education Agency (TEA) to reduce the number and type of written reports and other paperwork it requires of school districts. Despite this effort, there are both federal and state compliance, monitoring, and accountability systems relating to special education that districts must manage, along with the attendant paperwork. Managing and responding to multiple monitoring systems, many of which monitor the same requirements, diverts resources from students with disabilities to administrative functions, and the various due dates unique to each system leave district leaders confused, parents dissatisfied, and students' folder contents receiving more attention than student achievement growth. This bill:

Requires that the review conducted biennially to reduce paperwork required of a school district by TEA include a comparison of the reports and paperwork required by state law and the reports and paperwork required by federal law. Requires the commissioner of education to eliminate any reports or paperwork required by state law that duplicate the content of reports or paperwork also required by federal law.

Provides that the duties of the superintendent of a school district include submitting reports as required by state or federal law, rule, or regulation, and ensuring that a copy of any report required by federal law, rule, or regulation, is also delivered to TEA.

Public School Accountability and Districts of Innovation—H.B. 1842
by Representative Aycock et al.—Senate Sponsor: Senators Larry Taylor and West

Public schools that have underperformed for multiple years need appropriate support and interventions to improve school performance. This bill attempts to strengthen state interventions and sanctions in pursuit of improved school performance. Specifically, this bill:

Provides that the board of trustees of a school district may adopt a resolution establishing as a nonvoting member a student trustee position only in school districts in which a campus is operating under a campus turnaround plan. Sets forth certain policies the board is required to adopt for such a student trustee position and the conditions a student must meet to be eligible for the position. Prohibits a student trustee from participating in a closed session of a board meeting in which any issue related to a personal matter is considered.
Requires the commissioner of education (commissioner) to adopt an informal procedure to be used for certain actions, including denying the renewal of a charter of an open-enrollment charter school. Requires that the procedure so adopted allow representatives of the charter holder to meet with the commissioner to discuss the commissioner's decision and allow the charter holder to submit additional information to the commissioner relating to the commissioner's decision. Requires the commissioner, in the commissioner's final decision, to provide a written response to any information the charter holder so submits.

Provides that a school district may be designated as a district of innovation only if the district's most recent performance rating under Section 39.054 (Methods and Standards for Evaluating Performance), Education Code, reflects at least acceptable performance. Provides that consideration of such a designation may be initiated by a resolution adopted by the board of trustees of the district or a petition signed by a majority of the members of the district-level committee. Requires the board of trustees, after adopting such a resolution or receiving such a petition, to hold a public hearing to consider whether the district should develop a local innovation plan for the designation of the district as a district of innovation. Authorizes the board of trustees, at the conclusion of the public hearing or as soon as possible after the conclusion of the public hearing, to decline to pursue designation of the district as a district of innovation or to appoint a committee to develop a local innovation plan, as set forth by the provisions of this bill. Requires that a local innovation plan be developed for a school district before the district may be designated as a district of innovation. Prohibits the term of a district's designation as a district of innovation from exceeding five years.

Authorizes the commissioner to terminate a district's designation as a district of innovation or cause the district's local innovation plan to be amended if the district or its campuses receives a certain number or combination of unacceptable academic performance or financial accountability ratings. Provides that a decision by the commissioner relating to these provisions is final and may not be appealed. Authorizes the commissioner to adopt rules to implement these provisions.

Provides that the commissioner may direct the Texas Education Agency (TEA) to conduct monitoring reviews and random on-site visits of a school district at any time. Requires the commissioner to determine the frequency of monitoring reviews by TEA according to reviews of fiscal reports and other fiscal data and comprehensive analyses of financial accountability standards, among other considerations. Provides that TEA, in conducting a monitoring review, may obtain information from administrators, other district employees, parents of students enrolled in the school district, and other persons as necessary. Requires TEA to report in writing to the superintendent and president of the board of trustees of the school district and make recommendations concerning any necessary improvements or sources of aid such as regional education service centers. Provides that a monitoring review may include desk reviews and on-site visits, including random on-site visits.

Authorizes the commissioner to convert a monitoring review to a special accreditation investigation at any time, provided that the commissioner promptly notifies the school district of the conversion. Requires TEA to adopt written procedures for conducting special accreditation investigations, including procedures that allow TEA to obtain information from district employees in a manner that prevents a district or campus from screening the information. Requires TEA, after completing a special accreditation investigation, to present preliminary findings to any person or entity that TEA finds to have violated a law, rule, or policy. Requires TEA, before issuing a report with its final findings, to provide such a person or entity an opportunity for an informal review by the commissioner or a designated hearing examiner.
Requires the commissioner to assign a campus intervention team if a campus performance is below any standard under Section 39.054(e) (relating to annual performance reviews, including an analysis of achievement indicators), Education Code. Requires the campus intervention team to perform certain actions, including conducting a public meeting at the campus with the campus principal, the members of the campus-level planning and decision-making committee, parents of students attending the campus, and community members residing in the district to review the campus performance rating and solicit input for the development of the targeted improvement plan. Requires the campus intervention team to provide written notice of the public meeting to the parents of students attending the campus and to post notice of the meeting on the Internet website of the campus.

Requires the commissioner, after a campus has been identified as unacceptable for two consecutive school years, to order the campus to prepare and submit a campus turnaround plan. Requires the commissioner to establish procedures, by rule, governing the time and manner in which the campus is required to submit the campus turnaround plan. Requires a campus intervention team to assist the campus in developing an updated targeted improvement plan, including a campus turnaround plan, to be implemented by the campus. Requires the school district, in consultation with the campus intervention team and before a campus turnaround plan is prepared and submitted for approval to the board of trustees of the school district, to:

- provide notice to parents, the community, and stakeholders that the campus has received an academically unacceptable performance rating for two consecutive years and will be required to submit a campus turnaround plan; and
- require assistance from parents, the community, and stakeholders in developing the campus turnaround plan.

Requires the school district, in consultation with the campus intervention team, to prepare the campus turnaround plan and allow parents, the community, and stakeholders an opportunity to review the plan before it is submitted for approval to the board of trustees of the school district. Sets forth requirements for the campus turnaround plan. Provides that a school district may request that a regional education service center provide assistance in the development and implementation of a campus turnaround plan or partner with an institution of higher education to develop and implement a campus turnaround plan.

Provides that the school district, in consultation with the campus intervention team, may take any actions needed to prepare for the implementation of the campus intervention plan, following approval of the plan by the commissioner.

Provides that the board of trustees may implement the campus turnaround plan, implement a modified version of the campus turnaround plan, or withdraw the plan, if a campus for which a campus turnaround plan has been ordered receives an academically acceptable performance rating for the school year following the order. Provides that a school district required to implement a campus turnaround plan may modify the plan if the campus receives an academically acceptable performance rating for two consecutive school years following the implementation of the plan.

Provides that a district charter approved under Section 39.107 (Reconstitution, Repurposing, Alternative Management, and Closure), Education Code, may be renewed or continue in effect after the campus is no longer subject to an order by the commissioner to prepare and submit a campus turnaround plan. Requires the commissioner to adopt rules governing the procedures for an open-enrollment charter school campus
that is subject to an order issued by the commissioner to prepare and submit a campus turnaround plan. Requires an open-enrollment charter school to revise the school’s charter in the campus turnaround plan. Requires the governing board of the open-enrollment charter school to perform the duties of a board of trustees of a school district under Section 39.107, Education Code.

Provides that the commissioner may approve a campus turnaround plan only if the commissioner determines that the campus will satisfy all relevant student performance standards not later than the second year the campus receives a performance rating following the implementation of the campus turnaround plan. Requires the commissioner, if the commissioner does not make this determination, to order appointment of a board of managers to govern the district, alternative management of the campus, or closure of the campus.

Requires the commissioner, if a campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is ordered to submit a campus turnaround plan, to order appointment of a board of managers to govern the district or closure of the campus. Provides that, if the commissioner orders the closure of a campus, that campus may be repurposed to serve the students at that campus location under certain conditions.

Requires a board of managers appointed by the commissioner to take appropriate actions to resolve the conditions that caused a campus to be subject to an order by the commissioner to prepare and submit a campus turnaround plan, including amending the district’s budget, reassigning staff, or relocating academic programs.

Sets forth requirements for the composition and organization of the board of managers appointed by the commissioner. Provides that the commissioner may authorize payment of a board of managers from TEA funds. Provides that the commissioner may appoint a conservator or monitor for the district to ensure district-level support for low-performing campuses and to oversee the implementation of the updated targeted improvement plan following the removal of a board of managers or at the request of a managing entity to oversee the implementation of alternative management.

Requires the school district to execute a contract with a managing entity for a term not to exceed five years if the commissioner orders alternative management of a campus. Requires the commissioner to cancel the contract with the managing entity if a campus receives an academically unacceptable performance rating for two consecutive school years after the managing entity assumes management of the campus. Requires the board of trustees of the school district to resume management of the campus at the end of the contract term with a managing entity or the cancellation of a contract with a managing entity.

Provides that the commissioner is to apply certain interventions and sanctions to a school campus if a campus receives certain combinations of academically unacceptable performance ratings during a period of time from 2013 to 2019 and authorizes the commissioner to adopt rules as necessary to do so.

Provides that a board of managers appointed for an open-enrollment charter school or a campus of an open-enrollment charter school under Chapter 39 (Public School System Accountability) or 12 (Charters), Education Code, holds certain powers and duties held by a public school board of managers. Provides that, if the commissioner appoints a board of managers for an open-enrollment charter school or a campus thereof, the commissioner may also appoint a superintendent. Sets forth provisions relating to the composition and organization of the board of managers.
Requires the Legislative Budget Board (LBB) to publish a report evaluating the implementation of Section 39.107, Education Code, as amended by this bill, including an analysis of whether the changes in law made by this bill result in improvements to school performance and student performance no later than December 1, 2018. Provides that LBB may contract with another entity for the purpose of producing the evaluation so required.

**Electronic Notification of Student's Academic Performance—H.B. 1993**  
*by Representative Sheffield—Senate Sponsor: Senator Van Taylor*

School districts are required to furnish written notice to a child's parents regarding the child's performance in each class or subject. Specifically, the district must inform parents of their child's performance in each class once every twelve weeks. If a student's performance in a subject in the foundation curriculum is less than satisfactory, the notice must be provided at least once every three weeks. These notices are required, by law, to be signed by the parent and returned to the school district. This bill:

Authorizes a school district to use electronic means to notify parents of a student's academic performance, and to allow a parent to use an electronic signature (e-signature) for the purposes of signing and returning a student's report card to the school district.

**Three-Year High School Diploma Pilot Program—H.B. 2025**  
*by Representative Larry Gonzales—Senate Sponsor: Senator Schwertner*

During the 83rd Legislature, Regular Session, 2013, a pilot program was created for the Dallas and Houston independent school districts that allowed them to operate a three-year high school diploma plan. The success of the programs in Dallas and Houston should be tested on a smaller scale for purposes of considering statewide implementation. This bill:

Provides that Section 28.0255 (Pilot Program: Three-Year High School Diploma Plan), Education Code, applies only to a school district, among other criteria, with an enrollment of more than 5,000 but less than 7,000 students and located primarily in a county that contains the headwaters of the San Gabriel River.

**Suicide Prevention Training for Public School Educators—H.B. 2186**  
*by Representative Cook et al.—Senate Sponsor: Senator Campbell*

A report by the Centers for Disease Control and Prevention notes that suicide is a leading cause of preventable death for middle-school and high-school aged youth in the United States and that, of the teens who have attempted suicide, an overwhelming majority gave clear warning signs. Ensuring that state educators remain up-to-date on best practices for suicide prevention and remain attentive to warning signs will save lives. This bill:

Requires that the staff development provided by a school district to an educator other than a principal include suicide prevention training that is required to be provided on an annual basis, as part of a new employee orientation, to all new school district and open-enrollment charter school educators, and to
existing school district and open-enrollment charter school educators on a schedule adopted by the Texas Education Agency (TEA) by rule.

Requires that such suicide prevention training use a best practice-based program recommended by the Department of State Health Services in coordination with TEA. Provides that such training may be satisfied through independent review of suicide prevention training material that complies with the guidelines developed by TEA and is offered online.

Adding a Member to the State Board for Educator Certification—H.B. 2205
by Representatives Crownover et al.—Senate Sponsor: Senator Seliger

The current composition of the State Board for Educator Certification (SBEC) includes three nonvoting members and 11 voting members. As more new teachers enter Texas classrooms through alternative certification programs, observers have noted that adding an individual with alternative certification experience to SBEC would provide valuable input to the board’s decision-making process. This bill:

Adds one new, nonvoting member to SBEC, appointed by the governor. Requires that the member have experience working for an alternative educator preparation program.

Payment Schedule for Open-Enrollment Charter Schools—H.B. 2251
by Representative Anchia—Senate Sponsor: Senator Hancock

The current payment schedule for state education funding places a significant burden on open-enrollment charter schools. All open-enrollment charter schools, regardless of size or rate of growth, are issued equal payments once a month. For those schools that begin classes mid-summer, the July and August payments are calculated using the previous school year's enrollment. As a result, these schools begin the first two months of the school year with funding based on an outdated student count, which encumbers fast-growth charter schools. Conversely, some school districts operate on a payment schedule that provides the bulk of a school's funding early in the school year, providing much needed support for the purchases, hires, and operational costs that come with a new school year in a fast-growth district. H.B. 2251 authorizes a charter school with increased enrollment from the previous year to request an alternative payment schedule that frontloads the percentage of yearly entitlement payments in order to better manage growth while maintaining strict quality standards. This bill:

Requires the commissioner of education (commissioner), on the request of an open-enrollment charter school, to compare the student enrollment of the open-enrollment charter school for the current school year to the student enrollment of the school during the preceding school year. Authorizes the open-enrollment charter school, if the number of students enrolled at the open-enrollment charter school for the current school year has increased by 10 percent or more from the number of students enrolled during the preceding school year, to request that payments from the foundation school fund to the school for the following school year and each subsequent school year.

Entitles an open-enrollment charter school that qualifies to receive such funding to receive the funding for three school years. Requires the commissioner, on the expiration of that period, to determine the eligibility of the open-enrollment charter school to continue receiving payments from the foundation school fund for
an additional three school years. Requires the open-enrollment charter school, subsequently, to reestablish eligibility every three school years.

Provides a payment schedule for open-enrollment charter schools funded by the foundation school fund.

Public School Assessment, Performance, and Course Requirements—H.B. 2349

by Representative Aycock—Senate Sponsor: Senator Kolkhorst

Recent legislation made sweeping changes to the Education Code relating to public school assessment, performance standards, and course requirements, and clarification is required. Certain follow-up adjustments are therefore necessary. This bill:

Provides that an acknowledgment of student performance on the student's diploma and transcript may be earned for outstanding performance in certain areas, including on an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace or on an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process. Provides that such an acknowledgement may also be earned for earning a state recognized or nationally or internationally recognized business or industry certification or license.

Authorizes the Texas Education Agency (TEA) to defer releasing assessment instrument questions and answer keys to the extent necessary to develop additional assessment instruments.

Requires TEA to adopt procedures to ensure that the results of certain assessment instruments administered to students who transfer from a school district in another state to a school district in this state are reported to each school district separately from the results of assessment instruments administered to other students. Requires the commissioner of education (commissioner), by rule, to ensure that the results of assessment instruments so administered and reported are properly identified in agency systems that report and track academic performance of students and to adopt procedures for reporting and tracking data relating to students who transfer from a school district in another state to a school district in this state.

Requires the commissioner to adopt rules requiring a student in the foundation high school program to be administered an end-of-course assessment instrument only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered.

Sparsity Adjustment Under the Foundation School Program—H.B. 2593

by Representative Price—Senate Sponsor: Senator Seliger

Located at the peak of the Texas Panhandle, Texhoma reflects its name by straddling the Texas-Oklahoma border. The Texhoma Independent School District on the Texas side (Texas district) is unlike any other school district in the state, serving students residing in the Texas portion of the Texhoma community, as well as those in Oklahoma. Students attending pre-kindergarten through fourth grade attend school in the Texas district, and students attending grades five through twelve attend school in the Oklahoma district. While the Texas portion of the district serves students from both states, it does not receive funding for
those students living in Oklahoma and is thus operating with a fraction of the funds needed. Furthermore, the Texas portion of the district's average daily attendance fluctuates throughout the year and the district is constantly on the cusp of not meeting certain attendance requirements, which translates to funding cuts. This bill:

Amends current law relating to the sparsity adjustment for the Texhoma School District under the Foundation School Program.

**Instruction Time and Scheduling by School Districts—H.B. 2610**

*by Representative Ken King et al.*—*Senate Sponsor: Senator Larry Taylor*

There are certain occurrences, such as inclement weather, that require a school district to close its schools. Currently, a school district is required to provide instruction on a specified minimum number of days, so when a district closes schools on one or more days for such reasons and therefore does not provide instruction on those days, the district is required to make up for those missed days. Sometimes, a district is forced to extend the school year into the summer in order to meet the current requirement. This bill:

Requires each school district to operate so that the district provides for at least 75,600 minutes of instruction, including intermissions and recesses, rather than 100 days of instruction, for students each school year, except as authorized under certain provisions of Texas law.

Changes a reference from "days" to "minutes."

Authorizes a school district, if the commissioner of education (commissioner) does not approve reduced instruction time following a calamity resulting in the closing of schools, to add additional minutes to the end of the district's normal school hours as necessary to compensate for minutes of instruction lost due to school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity.

Authorizes the commissioner to adopt rules for the application, on the basis of the minimum minutes of instruction required by the provisions of this bill, of any provision of Title 2 (Public Education), Education Code, that refers to a minimum number of days of instruction under Section 25.081 (Operation of Schools), Education Code.

Provides that for the purpose of the Education Code, a reference to a day of instruction means 420 minutes of instruction.

Prohibits a school district from scheduling the last day of school for students for a school year before May 15, except a school district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the district does not offer, which may schedule the last day of school on any date permitted under the provisions of this bill or the law of the other state.
Funding for Students Enrolled in Optional Flexible School Day Program—H.B. 2660

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

The calculation of average daily attendance for regular program students is different from the calculation of average daily attendance for students enrolled in a flexible school day program. This difference in calculation, and the effect on school district funding under the Foundation School Program, restricts schools in their ability to offer a flexible schedule for students who wish to participate in internships, dual enrollment courses, or outside work. This bill:

Requires the commissioner of education, in calculating average daily attendance for students served by flexible school day programs, to ensure that funding for attendance in a course is based on the same instructional hour requirements of the regular program, rather than a full-time equivalent student basis that requires six hours of student contact time to qualify for a full day of attendance.

Evaluation of Public School Performance—H.B. 2804

by Representatives Aycock and Meyer—Senate Sponsor: Senator Larry Taylor

The state's school accountability system has relied too much on state standardized examinations and does not comprehensively evaluate school performance. This overreliance on state examinations has unintentionally narrowed the focus of teaching and learning. The school accountability system is therefore in need of revision. This bill:

Requires school districts and campuses to be evaluated based on five domains of indicators of achievement that include:

- the first domain, relating to student performance on certain assessment instruments;
- the second domain, relating to the number of students who meet certain benchmarks of performance on those assessment instruments;
- the third domain, relating to differences in student academic achievement among various racial, ethnic, and socioeconomic backgrounds;
- the fourth domain, relating to information collected from school campuses and districts, including student dropout rates; the percentage of students who satisfy Texas Success Initiative (TSI) college readiness benchmarks; the percentage of students who earn postsecondary credits, advanced placement credits, and industry certifications; student attendance; the percentage of students receiving certain preparatory instruction; and
- additional certain indicators of student achievement not associated with standardized assessment instrument performance; and the fifth domain, relating to community and student engagement.

Requires that the indicators adopted by the commissioner of education (commissioner) relating to the quality of learning and achievement, including the five domains, measure and evaluate school districts and campuses with respect to:

- improving student preparedness for success in subsequent grade levels and entering the workforce, the military, or postsecondary education;
- reducing, with the goal of eliminating, student academic achievement differentials among students from different racial and ethnic groups and socioeconomic backgrounds; and
- informing parents and the community regarding campus and district performance in the five
domains, for the fifth domain, in accordance with local priorities and preferences.

Requires that performance on the first four domains be compared to state-established standards and that the achievement indicators be based on information that is disaggregated by race, ethnicity, and socioeconomic status.

Requires the commissioner, within certain limitations, to annually define the state standard for the current school year for the first four domains and to project the state standards for the domains for the following two school years. Requires the commissioner to periodically raise the state standards for the college readiness achievement indicator described under the first domain for accreditation as necessary to reach the goals of achieving, by not later than the 2019-2020 school year, student performance, disaggregated by race, ethnicity, and socioeconomic status, that ranks nationally in the top 10 states in terms of college readiness and with no significant gaps by race, ethnicity, and socioeconomic status.

Requires the commissioner to assign each district and campus a performance rating not later than August 15 of each year, notwithstanding any other law. Provides that this requirement expires September 1, 2016.

Requires the commissioner, beginning on September 1, 2017, to adopt rules to evaluate school district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F. Requires the commissioner to assign each district and campus a separate domain performance rating of A, B, C, D, or F for the first four domains in addition to the overall performance rating. Provides that an overall or domain performance rating of A reflects exemplary performance, a rating of B reflects recognized performance, a rating of C reflects acceptable performance, and a rating of D or F reflects unacceptable performance. Provides that a district may not receive an overall or domain performance rating of A if the district includes any campus with a corresponding overall or domain performance rating of D or F. Provides that a reference in law to an acceptable rating or acceptable performance includes an overall or domain performance rating of A, B, or C or exemplary, recognized, or acceptable performance.

Requires the commissioner, for purposes of assigning an overall performance rating, to attribute certain weights to the five domains depending on certain circumstances. Requires the commissioner to adopt, by rule, procedures to ensure that a repeated performance rating of D or F or unacceptable in one domain, particularly performance that is not significantly improving, is reflected in the overall performance rating of a district or campus and is not compensated for by a performance rating of A, B, or C in another domain. Requires that the performance ratings of each district and campus be made publicly available not later than August 15 of each year.

Requires each school district and campus, for purposes of including the local evaluation of districts and campuses under the fifth domain and assigning an overall rating, before the beginning of each school year, to select and report to TEA three programs or categories under Section 39.0545(b)(1) (relating to certain programs or categories of performance at a school campus that a school district is to evaluate for purposes of assigning a performance rating), Education Code, as added by Chapter 211 (H.B. 5), Acts of the 83rd Legislature, Regular Session, 2013, under which the district and campus will evaluate district and campus performance; to submit to TEA the criteria that the district and campus will use to evaluate district and campus performance and assign the district and campus a performance rating; and make such information available on the district and campus Internet website. Requires each school district and campus, based on the local evaluation, to assign the district and campus a performance rating of A, B, C, D, or F, for both overall performance and for each program or category evaluated. Provides that an overall or a program or
category performance rating of A reflects exemplary performance, a rating of B reflects recognized performance, a rating of C reflects acceptable performance, and a rating of D or F reflects unacceptable performance.

Requires each school district and campus, on or before the date determined by the commissioner by rule, to report each performance rating to TEA for the purpose of including the rating in evaluating school district and campus performance and assigning an overall rating.

Establishes the Texas Commission on Next Generation Assessments and Accountability (commission) to develop and make recommendations for new systems of student assessment and public school accountability. Sets forth certain matters that the commission is to develop recommendations to address. Sets forth the membership of the commission and how those members are to be appointed and organized. Requires TEA staff to provide administrative support for the commission. Provides that the commission may hold public meetings as needed to fulfill its duties.

Requires the commission to prepare and submit a report to the governor and the legislature that recommends statutory changes to improve systems of student assessment and public school accountability not later than September 1, 2016. Requires the commission, in preparing the report, to consider the recommendations of the Texas High Performance Schools Consortium, including recommendations related to innovative, next-generation learning standards and assessment and accountability systems.

Provides that the commission is abolished January 1, 2017.

**Limiting Liability of Charter School Finance Corporation—H.B. 2851**

*by Representative Parker—Senate Sponsor: Senator Van Taylor*

The Charter School Finance Corporation (CSFC) was created by the Texas Public Finance Authority (TPFA) to issue revenue bonds and lend the bond proceeds to authorized charter schools to help finance or refinance the acquisition, construction, or improvement of educational facilities. Unlike a state agency board of directors or another similar corporation established as an instrumentality of the state, neither the CSFC's directors and officers, nor any of the directors, officers, or employees of the finance authority acting on CSFC's behalf, are granted statutory immunity from personal liability for claims arising as a result of the performance of their official duties or on any commitment or agreement executed on the CSFC's behalf. Purchasing directors and officers liability insurance in order to allow the CSFC to perform its statutory functions may be costly and beyond the CSFC's budgetary constraints. Further, the absence of a liability insurance policy impedes CSFC's ability to meet to take any action related to bond issuance or applications for certain awards. This bill:

Provides that the directors of CSFC appointed by TPFA are subject to the approval of the governor.

Provides that a director, officer, or employee of CSFC is not personally liable:

- for damage, loss, or injury resulting from the performance of the person's duties; or
- on any commitment or agreement executed on behalf of CFCS.
Appointment of School District Board of Managers—H.B. 3106

by Representatives Huberty and Phelan—Senate Sponsor: Senator Creighton

When a school district is found to be underperforming, the commissioner of education (commissioner) may elect to appoint a board of managers as a means of getting the district's performance back up to standards. The period of time allowed for the authority of an appointed board of managers should be extended at the commissioner's discretion. This bill:

Requires the board of managers, at the direction of the commissioner, but not later than the second anniversary of the date the board of managers of a district was appointed, to order an election of members of the district board of trustees.

Authorizes the commissioner, if, before the second anniversary of the date the board of managers of a district was appointed, the commissioner determines, after receiving local feedback, that insufficient progress has been made toward improving the academic or financial performance of the district, to extend the authority of the board of managers for a period of up to two additional years.

Grace Period for Purchasing Public School Meals—H.B. 3562

by Representative Senfronia Thompson—Senate Sponsor: Senator Rodríguez

Some public school students in Texas are required to pay a portion of lunch costs if their family's income exceeds the income eligibility guidelines for a student's participation in a free or reduced price lunch program. In some districts, students who are required to pay for lunch have a lunch card or lunch account with funds provided by their family to pay for their lunch. When the funds on the account are depleted, the students are no longer able to receive a hot lunch until the lunch card is reloaded with funds. This bill:

Requires a school district that allows students to use a prepaid meal card or account to purchase meals served at the school to adopt a grace period policy regarding the use of the cards or accounts. Sets forth certain provisions that the grace period policy is required to include.

Personal Financial Literacy Program—H.B. 3987

by Representative Farney et al.—Senate Sponsor: Senators Garcia and Huffines

The city of Amarillo, has implemented a successful pilot program that allows schools to develop partnerships with local financial institutions and other organizations to open and manage savings accounts for students and to include this as part of the financial education curriculum. The results of the pilot program showed that the financial education curriculum and savings accounts improved students' attitudes towards saving money and toward financial institutions in general. This bill:

Authorizes a school district or open-enrollment charter school to establish a school-based savings account program to promote awareness of saving for higher education and to facilitate personal financial literacy instruction.

Authorizes a district or charter school to offer the program in conjunction with a personal financial literacy course.
Exempts school-based savings accounts from:

- financial requirements for determining eligibility for the TEXAS grant program or other state-funded financial assistance;
- household income requirements for Department of Health and Human Services financial assistance programs; and
- family income and resource requirements for eligibility for the supplemental nutrition assistance program (SNAP).

**Use of Epinephrine on School Campuses and at School Events—S.B. 66**

*by Senator Hinojosa—House Sponsor: Representatives Crownover and Herrero*

Anaphylaxis is a severe allergic reaction that is rapid in onset and includes a wide range of potentially life-threatening symptoms. These symptoms can occur in many combinations and are highly unpredictable. Food allergies are among the most common medical conditions affecting children in the United States, and are also the most common cause of anaphylaxis among children. Current estimates are that one in 13 children have food allergies, and about 40 percent of those have had a severe allergic reaction. More alarmingly, 25 percent of anaphylactic reactions in schools occur among students without a previous food allergy diagnosis.

Primary treatment of anaphylaxis consists of administration of epinephrine as soon as the reaction is identified. Failure to treat anaphylaxis with epinephrine within minutes is a major risk factor for fatality from anaphylaxis. Public schools are not currently required to have the necessary, unassigned epinephrine auto-injectors available to treat individuals suffering from anaphylaxis who may have an undiagnosed food allergy and are without a prescribed (assigned) epinephrine auto-injector. This bill:

Requires the commissioner of state health services (commissioner) to establish an advisory committee to examine and review the administration of epinephrine auto-injectors to a person experiencing an anaphylactic reaction on a campus of a school district or an open-enrollment charter school. Sets forth the composition of the advisory committee. Requires the advisory committee to advise the commissioner on the storage and maintenance of epinephrine auto-injectors on school campuses, the training of school personnel and school volunteers in the administration of an epinephrine auto-injector, and a plan for one or more school personnel members or school volunteers trained in the administration of an epinephrine auto-injector to be on each school campus.

Provides that each school district and open-enrollment charter school may adopt and implement a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors at each campus in the district or school and at off-campus events or in transit to or from a school event. Sets out certain requirements for such a policy. Requires each school district and open-enrollment charter school that adopts a policy to require that each campus have one or more school personnel members or school volunteers authorized and trained to administer an epinephrine auto-injector present during all hours the campus is open. Requires that written notice be given to the parents or guardians of each student enrolled in the district or school. Sets forth certain requirements for the notice.

Requires the commissioner of state health services, in consultation with the commissioner of education and with advice from the advisory committee, to adopt rules regarding the maintenance, administration, and
disposal of an epinephrine auto-injector at a school campus subject to a policy adopted under the provisions of this bill. Sets forth certain requirements for such rules.

Authorizes a school district or open-enrollment charter school to accept gifts, grants, donations, and federal and local funds to implement the provisions of this bill. Requires the commissioner and the commissioner of education to jointly adopt rules as necessary to implement the provisions of this bill, except as otherwise provided by the provisions of this bill.

Provides that a school district or open-enrollment charter school that provides for the maintenance, administration, and disposal of epinephrine auto-injectors under the provisions of this bill is not required to comply with Section 38.0151 (Policies for Care of Certain Students at Risk for Anaphylaxis), Education Code.

**Removal, Discipline, or Transfer of Public School Student—S.B. 107**  
*by Senator Whitmire—House Sponsor: Representative Senfronia Thompson*

In 1995, Texas developed zero-tolerance policies requiring that students who commit certain serious acts be expelled from school. The zero-tolerance policies left no room for discretion on the part of the schools to look at extenuating circumstances or to allow for alternate resolutions to the behavior. Over the years, there have been many situations where students have been expelled from school for acts that were not harmful, but fell under a mandatory removal. This bill:

Requires the designation of a campus behavior coordinator (CBC) at each campus.

Provides that the CBC may be the principal or a campus administrator selected by the principal.

Provides that the CBC is primarily responsible for maintaining student discipline.

Authorizes specific duties of the CBC to be established by campus or district policy, unless otherwise provided by law.

Requires the CBC to promptly notify a student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer.

Sets forth how a CBC must notify a parent or guardian.

Provides that the principal or other designee must provide the notice if a CBC is unable or not available to promptly provide notice.

Replaces "principal" with CBC in various statutes regarding the discipline of students.

Requires the CBC to employ appropriate discipline management techniques consistent with the student code of conduct that can reasonably be expected to improve the student's behavior before returning the student to the classroom.
Requires a CBC, if the student's behavior does not improve, to employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the CBC in the student code of conduct.

Clarifies that a student must be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property, engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons under Section 46.05, Penal Code.

Requires a CBC, before ordering the suspension, expulsion, removal to a disciplinary alternative education program, or placement in a juvenile justice alternative education program of a student, or a board of trustees before expelling a student, to consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action.

 Strikes a provision permitting the period of placement to exceed one year if the district determines that extended placement is in the best interest of the student.

**Individual Graduation Committees—S.B. 149**

*by Senator Seliger et al.—House Sponsor: Representative Huberty*

It has been reported that tens of thousands of students will not graduate from high school this year because of the failure to pass an end-of-course test, including many cases in which a student has completed all other required coursework. In many cases, these students have passed all of the related coursework and only one or more end-of-course assessment instruments are preventing their graduation. Interested parties note that a high school diploma makes it much easier for a student to attend college, join the military, and qualify for jobs, and assert that the law should be changed to provide an alternative method for satisfying certain high school graduation requirements. This bill:

Provides that an open-enrollment charter school is subject to the requirement to establish an individual graduation committee under Section 28.0258 (High School Diploma Awarded on Basis of Individual Graduation Committee Review), Education Code.

Provides that a person may receive a diploma if the person is eligible for a diploma under Section 28.0258, Education Code, notwithstanding Section 28.025(c) (relating to alternative means of qualifying for high school graduation), Education Code.

Provides that Section 28.0258, Education Code, applies only to an 11th or 12th grade student who has failed to comply with certain end-of-course assessment instrument performance requirements for not more than two courses.

Requires the school district of an eligible student to establish an individual graduation committee at the end of or after the student's 11th grade year to determine whether the student qualifies to graduate as provided by Section 28.0258, Education Code. Provides that a student may not qualify to graduate as provided by
Section 28.0258, Education Code, before the student's 12th grade year. Requires that the committee be composed of: the principal or principal's designee; the teacher of the course for each end-of-course assessment instrument on which the student failed to perform satisfactorily; the department chair or lead teacher supervising that teacher; and, as applicable:

- the student's parent or person standing in parental relation to the student;
- a designated advocate, if the student's parent or person standing in parental relation to the student is unable to serve; or
- the student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

Requires the commissioner of education (commissioner) to establish by rule a procedure for appointing an alternative committee member if a person required to serve on the committee is unable to serve, including appointing a designated advocate for the student if the student's parent or person standing in parental relation to the student is unable to serve. Requires the superintendent of each school district to establish procedures for the convening of an individual graduation committee.

Requires the student's school district to establish procedures for appointing alternative committee members for the 2014-1015 school year.

Requires the school district to provide an appropriate translator, if available, for the student's parent or person standing in parental relation to the student, a designated advocate for the student, or the student, if the person is unable to speak English.

Requires the school district to ensure that a good faith effort is made to timely notify the student's parent or person standing in parental relation to the student, a designated advocate for the student, or the student of the time and place for convening the individual graduation committee and the purpose of the committee. Requires that the notice be provided in person or by regular mail or e-mail, clear and easy to understand, and written in English, Spanish, or, to the extent practicable, in the native language of the student's parent or person standing in parental relation to the student, a designated advocate for the student, or the student.

Requires a student, to be eligible to graduate and receive a high school diploma under Section 28.0258 (High School Diploma Awarded on Basis of Individual Graduation Committee Review), Education Code, to successfully complete the curriculum requirements required for high school graduation identified by the State Board of Education (SBOE) or as otherwise provided by the transition plan adopted by the commissioner under this bill.

Requires a student's individual graduation committee to recommend additional requirements by which the student may qualify to graduate, including additional remediation, and for each end-of-course assessment instrument on which the student failed to perform satisfactorily, the completion of a project related to the subject area of the course that demonstrates proficiency in the subject area or the preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

Authorizes a student to submit to the individual graduation committee coursework previously completed to satisfy a recommended additional requirement.
Requires the individual graduation committee, in determining whether a student is qualified to graduate, to consider other certain criteria set forth.

Authorizes the individual graduation committee to determine, after considering the required criteria, whether the student is qualified to graduate. Authorizes a student for whom an individual graduation committee is established to graduate and receive a high school diploma on the basis of the committee's decision only if the student successfully completes all additional requirements recommended by the committee, the student meets the requirements identified by SBOE and provided by the transition plan adopted by the commissioner under this bill, and the committee's vote is unanimous. Requires the commissioner to establish by rule a timeline for making a determination by an individual graduation committee on whether a student is qualified to graduate. Provides that the determination by the committee does not create a property interest in graduation. Provides that the decision of a committee is final and is prohibited from being appealed.

Requires the local school district to establish a timeline for the individual graduation committee for making a determination regarding whether a student is qualified to graduate for the 2014-2015 school year. Provides that this requirement expires September 1, 2015.

Requires a school district, notwithstanding any action taken by an individual graduation committee, to administer an end-of-course assessment instrument to any student who fails to perform satisfactorily on an end-of-course assessment instrument as provided by Section 39.025 (relating to authorizing a student to retake certain end-of-course assessment instruments), Education Code. Provides that for purposes of Section 39.053(c)(1) (relating to indicators of student achievement provided by the results of certain assessment instruments), Education Code, an assessment instrument administered as provided is considered an assessment instrument required for graduation that is retaken by a student.

Requires the commissioner to adopt rules as necessary to implement the provisions of this bill not later than the 2015-2016 school year.

Requires each school district to report through the Public Education Information Management System the number of school district students each school year for which an individual graduation committee is established and the number of district students each school year who are awarded a diploma based on the decision of an individual graduation committee, not later than December 1 of the school year following the school year the student is awarded a diploma.

Requires the Texas Education Agency to make such information available on TEA's Internet website.

Authorizes a student who has failed to perform satisfactorily on end-of-course assessment instruments in the manner provided under Section 39.025 (Secondary-Level Performance Required), Education Code, to receive a high school diploma if the student has qualified for graduation as provided by Section 28.0258, Education Code.

Provides that a student who, after retaking an end-of-course assessment instrument for Algebra I or English II, has failed to perform satisfactorily, but who receives a score of proficient on the Texas Success Initiative diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the end-of-course assessment instrument, satisfies the Algebra I or English II end-of-course assessment requirement, as applicable.
Temporary Waiver of Superintendent Certification—S.B. 168  
by Senator Uresti—House Sponsor: Representative Farias

Current law requires a public school superintendent in Texas to hold the appropriate certification, and a school board that hires a superintendent candidate who does not hold a superintendent certificate must request a waiver of the certification requirement from the commissioner of education. Often these waivers come with additional requirements, such as a requirement that the superintendent candidate complete the certification process within one year. However, current law does not specify the time frame in which a district must apply for and receive a waiver and it is unclear whether the commissioner has the authority to include such a requirement. This bill:

Authorizes the commissioner to waive the requirement for certification of a superintendent if requested by a school district.

Authorizes a person who is not certified as a superintendent to be employed by a school district as the superintendent before the person has received a waiver of certification from the commissioner.

Authorizes the commissioner to limit the waiver of certification in any manner the commissioner determines is appropriate.

Authorizes a person to be designated to act as a temporary or interim superintendent for a school district, but prohibits the district from employing the person under a contract as superintendent unless the person has been certified or a waiver has been granted.

Use of Sunscreen Products in Public Schools—S.B. 265  
by Senator Ellis—House Sponsor: Representative Sarah Davis

School districts adopt their own policies concerning medication in schools, which can include bans of the unauthorized possession of over-the-counter medication by students. Sunscreen is regulated as an over-the-counter drug product, which can mean that some children have inadequate access to this valuable product. This bill:

 Provides that a student may possess and use a topical sunscreen product while on school property or at a school-related event or activity to avoid overexposure to the sun and not for the medical treatment of an injury or illness if the product is approved by the federal Food and Drug Administration for over-the-counter use.

Review of Texas Essential Knowledge and Skills (TEKS)—S.B. 313 [VETOED]  
by Senator Seliger—House Sponsor: Representative Aycock

The State Board of Education (SBOE) is tasked with adopting curriculum standards for public education, known as the Texas Essential Knowledge and Skills (TEKS). There is consensus among educators that the scope of TEKS is too broad to be reasonably taught within the span of the school year. The legislature recently established the instructional materials allotment for the purchase of instructional materials, technological equipment, and technology-related services with the intention of providing school districts
more flexibility over the use of funds and updating the aging system under which instructional materials were previously purchased. However, many districts have complained about a lack of flexibility with regard to the allotment because the costs of the materials adopted by SBOE leave few remaining funds to enable that flexibility. This bill:

Requires SBOE to conduct a review of the TEKS in the foundation curriculum subjects and modify them to narrow the content and scope for each subject and grade level.

Requires SBOE to consider:
- the time a teacher is required to provide comprehensive instruction and the time a student is required to master a particular standard or skill for each subject and grade level;
- whether the TEKS can be comprehensively taught within the required number of school days;
- possible inclusion of the college and career readiness standards; and
- whether an assessment instrument adequately assesses a particular standard or skill.

Requires SBOE to ensure priority in reviewing subjects for which an end-of-course (EOC) assessment is administered.

Requires SBOE, by September 1, 2018, to complete the review and revision process of TEKS for each subject and grade level in the foundation curriculum subjects last revised before September 1, 2012.

Requires that the TEKS review and modification not result in a need for the adoption of new instructional materials in any subject other than English language arts.

Requires the Texas Education Agency (TEA) to provide a detailed report of a student's performance on each TEKS standard for which an assessment instrument is administered and to provide assessment results, aggregated across classes, campuses, and districts, to the students, the student's parent or guardian, and the student's teachers.

Authorizes the commissioner of education to contract with a third party to provide the detailed report.

Requires SBOE to develop and adopt a chart indicating the alignment of the college readiness standards and expectations with TEKS.

Entitles school districts to the instructional materials allotment (IMA) on a biennial basis, rather than an annual basis, and requires that IMA funding be available in the first year of each biennium.

Requires SBOE to only issue proclamations, defined as a request for production of new instructional materials, in which the total projected cost of instructional materials does not exceed 75 percent of the total IMA for any biennium.

Requires SBOE to determine whether issuance of a proclamation was necessary following the adoption of revised TEKS for any subject, and, if necessary, requires SBOE to issue:
- a full call for instructional materials aligned to all TEKS for the subject and grade level;
- a supplemental call aligned to new or expanded TEKS for the subject and grade level;
- a call for new information demonstrating alignment of current instructional materials to revised TEKS; or
- any combination of the above.

Requires SBOE to consider the cost of all instructional materials and technology requirements in determining the disbursement of money to the available school fund (ASF) to fund the IMA.

Requires SBOE to set aside 50 percent of the distribution from the permanent school fund (PSF) to the ASF to be placed in the instructional materials fund (IMF) on a biennial basis, rather than an annual basis.

Requires the comptroller of public accounts of the State of Texas, to the extent authorized by the General Appropriations Act, to allow TEA to make temporary transfers from the foundation school fund (FSF) to pay for the instructional materials allotment as needed.

Automated External Defibrillator Continuing Education Credit—S.B. 382
by Senator Uresti—House Sponsor: Representative Huberty

Despite a statutory requirement that all public schools have automated external defibrillators (AEDs) on campus and make AED training available for volunteers and district staff, the only people on campus required to be trained in using an AED in schools are school nurses, assistant nurses, and athletic personnel. This limitation means that a school is not required or encouraged to offer AED training to a significant number of personnel on a school campus during the majority of the school day. This bill:

Requires the State Board for Educator Certification to adopt rules allowing an educator to receive credit towards the educator's continuing education requirements for completion of an instructional course on the use of an automated external defibrillator that meets the guidelines for automated external defibrillator training.

Foundation School Program Funding for Certain Students—S.B. 496 [VETOED]
by Senator Watson—House Sponsor: Representative Howard

The calculation of average daily attendance for regular program students is different from the calculation of average daily attendance for students enrolled in a flexible school day program. The difference in the calculation, and the effect on school district funding under the Foundation School Program, restricts schools in their ability to offer a flexible schedule for students who wish to participate in internships, dual enrollment courses, or outside work. This bill:

Amends the Education Code to require the commissioner of education, in calculating the average daily attendance for students served by an optional flexible school day program, to ensure that funding for attendance in a course under such a program is based on the same instructional hour requirements of the regular program rather than a full-time equivalent student basis that requires six hours of student contact time to qualify for a full day of attendance.

Sets forth authorized uses of funds distributed under the Foundation School Program.
Video Cameras in Special Education Settings—S.B. 507
by Senator Lucio et al.—House Sponsor: Representative Senfronia Thompson

Every instance of abuse and bullying in school is unacceptable. Unfortunately, when the victim is a nonverbal special needs student, such incidents often go unreported. With their victims unable to speak for themselves and with no way to prove the abuse, those who would prey on these most vulnerable children frequently continue their abusive behavior with no fear of repercussion. In these instances, video footage of misconduct can serve as a child's only cry for help. This bill:

Provides that an employee of a school district is not required to obtain the consent of a child's parent before the employee makes a videotape of a child or authorizes the recording of a child's voice if the videotape or voice recording is to be used only for certain purposes, including a purpose related to the promotion of student safety under the provisions of this bill.

Requires a school district or open-enrollment charter school, in order to promote student safety on request by a parent, trustee, or staff member, to provide equipment, including a video camera, to each school in the district or each charter school campus in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled. Requires each school or campus that receives equipment to place, operate, and maintain one or more video cameras in each self-contained classroom or other special education setting in which a majority of the students are provided special education and related services and assigned to a self-contained classroom or other special education setting for at least 50 percent of the instructional day. Requires that video cameras so placed be capable of recording all areas of the classroom or other special education setting, except the inside of a bathroom or any area in the classroom or setting in which a student's clothes are changed, and recording audio from all areas of the classroom or other special education setting.

Requires a school or campus, before so placing a video camera, to provide written notice of the placement to all school or campus staff and to the parents of a student receiving special education services in the classroom or setting.

Requires a school district or open-enrollment charter school to retain video recorded from a camera so placed for at least six months after the date the video was recorded.

Authorizes a school district or open-enrollment charter school to solicit and accept gifts, grants, and donations from any person for use in placing video cameras in classrooms or other special education settings.

Provides that the provisions of this bill do not waive any immunity from liability of a school district or open-enrollment charter school, or of district or school officers or employees, or create any liability for a cause of action against a school district or open-enrollment charter school or against district or school officers or employees.

Prohibits a school district or open-enrollment charter school from allowing regular or continual monitoring of video recorded under the provisions of this bill, or using video recorded under the provisions of this bill for teacher evaluation or for any purpose other than the promotion of safety of students receiving special education services in a self-contained classroom or other special education setting.
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Provides that a video recording of a student made under the provisions of this bill is confidential and may not be released or viewed except as provided by certain provisions of this bill. Sets forth the persons to whom a school district or open-enrollment charter school may release a recording to for viewing. Requires such an eligible person who views the video recording and believes that the recording documents a certain violations of the Family Code to notify the Department of Family and Protective Services for investigation. Authorizes such an eligible person, or a person who views the recording and believes that the recording documents a possible violation of district or school policy, to allow access to the recording to appropriate legal and human resources personnel. Provides that a recording believed to document a possible violation of district or school policy may be used as part of a disciplinary action against district or school personnel and is required to be released at the request of the student's parent or guardian in a legal proceeding. Provides that the provisions of this bill do not limit the access of a student's parent to a record regarding the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.

Authorizes the commissioner of education (commissioner) to adopt rules to implement and administer certain provisions of this bill, including rules regarding the special education settings to which those certain provisions apply.

Requires the commissioner to establish by rule a grant program through which excess funds are awarded as grants for the purchase of video equipment, or for the reimbursement of costs for previously purchased video equipment, used for monitoring special education classrooms or other special education settings required under certain provisions of this bill, notwithstanding any other provision of law, if the commissioner determines that the amount appropriated for the purposes of the Foundation School Program exceeds the amount to which school districts are entitled under Chapter 42 (Foundation School Program), Education Code.

Requires the commissioner, in awarding such grants, to grant certain school districts priority over others. Requires school districts and charter schools, on the request of a parent, board trustee, or staff member, to provide equipment, including video cameras, in self-contained classrooms or other special education settings in which certain students receive special services.

Requires each campus that receives such equipment to place, operate, and maintain the video camera in each self-contained classroom or other special education setting in which the majority of students in regular attendance are provided special education and related services and are assigned to a special education setting for at least 50 percent of the instructional day.

Provides that the cameras must record audio and be capable of covering all areas of the classroom or setting with the exception of bathrooms or areas in which a student's clothes are changed.

Requires a school district or charter school to provide parents and staff with written notice that video monitoring cameras are to be installed prior to installation, but does not require the district to secure parental consent.

Prohibits a district or charter school from placing a camera in the classroom or special education setting of a student whose parent has sent a written objection to the district or charter school within 30 days of notification.
Requires a school district or charter school to keep the recorded video for at least six months after it is recorded, and prohibits regular or continual monitoring of video recorded under this section by a district or charter school.

Authorizes a school district or charter school to solicit and accept gifts, grants, and donations to use in placing video cameras in classrooms or special education settings.

Provides that if the commissioner determines that the amount appropriated for the Foundation School Program (FSP) exceeds the amount that districts are entitled to under Texas Education Code, Chapter 42, the commissioner is required to establish a grant program by rule to award grants for the purchase and reimbursement of video equipment used to surveil special education settings.

Requires the commissioner of education to adopt rules to implement the provisions of the bill.

**Mental Health, Substance Abuse, and Youth Suicide Training Programs—S.B. 674**

*by Senator Campbell et al.—House Sponsor: Representative Coleman*

Many Texas children have a mental illness or addictive disorder and assert that educators, given the significant amount of time they spend with children, are in a unique position to steer such children toward treatment. Relevant training for this assistance is provided to some, but not all, educators. This inconsistency creates duplicative work, introduces a risk of some educators not being instructed on applicable best practices, and causes confusion among schools as to the appropriate training for educators. This bill:

Amends the Education Code to replace instruction in detection of students with mental or emotional disorders with instruction regarding mental health, substance abuse, and youth suicide as instruction that a person must receive as part of the training required to obtain certain educator certification. Requires that the instruction be provided through a program selected from the list of recommended best practice-based programs established under Health and Safety Code provisions relating to mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, and to include effective strategies for teaching and intervening with students with mental or emotional disorders, including de-escalation techniques and positive behavior interventions and supports. Repeals statutory provisions requiring that the instruction be developed by a panel of experts in the diagnosis and treatment of mental or emotional disorders who are appointed by the State Board for Educator Certification and include information on characteristics of the most prevalent mental or emotional disorders among children, identification of mental or emotional disorders, effective strategies for teaching and intervening with students with those disorders, and providing notice and referral to a parent or guardian of a student with such a disorder.

**Education Research Center Advisory Boards—S.B. 685**

*by Senator Seliger—House Sponsor: Representative Raney*

The Texas Education Agency, the Texas Higher Education Coordinating Board, and the Texas Workforce Commission currently execute agreements for the purpose of sharing data for the preparation of education and workforce studies at education research centers (ERCs). ERCs were created to conduct research for...
the benefit of education in Texas, with advisory boards that evaluate proposals and ensure appropriate data use, including compliance with state and federal laws governing data use and access. Currently, these advisory boards are not subject to open records requests or state open meetings law. This bill:

Establishes that an education research center advisory board is considered to be a governmental body for purposes of state open meetings and public information law. Specifies that advisory board meetings may be conducted by electronic means to the extent and in the manner authorized by state open meetings law.

Contracts Between ISDs and Municipalities for Certain Facility Projects—S.B. 810
by Senators Seliger and West—House Sponsor: Representative Smithee

Currently, school districts are prohibited from expending resources to design, construct, or renovate any property that the district does not own or lease, unless the district partners with an institution of higher education to construct an athletic or instructional facility. This bill:

Authorizes an independent school district and a municipality, located wholly or partially in the boundaries of a county in which the district is located, to contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility, stadium, or other athletic facility owned by, on the property of, or under the control of the municipality. Authorizes a district to contribute district resources only if the district and municipality enter into a written agreement authorizing the district to use that facility.

Provides that an agreement so entered into before the construction of an instructional facility, stadium, or other athletic facility, does not violate Section 11.169 (Electioneering Prohibited), Education Code.

Training Academies for Certain Reading Teachers—S.B. 925
by Senators Kolkhorst and West—House Sponsor: Representative Aycock

Teacher quality is widely considered the most important school-related variable in improving student performance; accordingly, teachers must be afforded the resources, training, and tools needed to make a difference in their young students' lives. Many students are not reading at a satisfactory level. Literacy achievement academies, based on professional development created as a part of former Governor Bush's Texas Reading Initiative, will support teacher training and the implementation of scientific, research-based programs that support students in their reading development in the primary grades. This bill:

Requires the commissioner of education (commissioner) to develop and make available literacy achievement academies for teachers who provide reading instruction to students at the kindergarten or first, second, or third grade level.

Requires that a literacy achievement academy include both training in effective and systematic instructional practices in reading, including phonemic awareness, phonics, fluency, vocabulary, and comprehension and the use of empirically validated instructional methods that are appropriate for struggling readers. Authorizes a literacy achievement academy to include training in effective instructional practices in writing.
Requires the commissioner to adopt criteria for selecting teachers who are authorized to attend a literacy achievement academy. Requires the commissioner, in adopting selection criteria, to grant 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 to provide a process through which a teacher not employed at such a campus 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.

Provides that a teacher who attends a literacy achievement academy is entitled to receive a stipend in the amount determined by the commissioner from funds appropriated for that purpose. Provides that a stipend so received is not considered in determining whether a school district is paying the teacher the minimum monthly salary under Section 21.402 (Minimum Salary Schedule for Certain Professional Staff), Education Code.

Requires regional education service centers, on request of the commissioner, to assist the commissioner and Texas Education Agency with training and other activities relating to the development and operation of literacy achievement academies.

Training Academies for Math Teachers—S.B. 934
by Senators Kolkhorst and West—House Sponsor: Representative Farney

Over the next 10 years, employers in the science, technology, engineering, and mathematics (STEM) fields will require more graduates with STEM backgrounds than United States colleges and universities are on track to produce. Mathematics is a foundational skill for nearly all STEM pathways. However, an insufficient number of Texas students have achieved scores considered to be advanced or proficient on a recent national mathematics assessment. This bill:

Amends the Education Code to require the commissioner of education to develop and make available mathematics achievement academies for teachers who provide mathematics instruction to students at the kindergarten or first-grade, second-grade, or third-grade level. Requires a mathematics achievement academy to include training in effective and systematic instructional practices in mathematics. Requires the commissioner to adopt criteria for selecting teachers who may attend a mathematics achievement academy and requires the commissioner, in adopting such criteria, to prioritize teachers employed by a school district at a campus at which 50 percent or more of the students enrolled are educationally disadvantaged and to provide a process through which a teacher not employed at such a campus 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. Entitles a teacher who attends a mathematics achievement academy to receive a stipend in the amount determined by the commissioner from funds appropriated for that purpose. Establishes that the stipend is not considered in determining whether a district is paying the teacher the required minimum monthly salary. Requires regional education service centers, on request of the commissioner, to assist the commissioner and the Texas Education Agency with training and other activities relating to the development and operation of mathematics achievement academies.
Establishment of a Reading Excellence Team Pilot Program—S.B. 935
by Senators Kolkhorst and West—House Sponsor: Representative Deshotel

Reading is a critically important skill and serves as the foundation on which all other learning is built. Many students in Texas are not reading at a satisfactory level, which limits their ability to excel in other subjects. According to the most recent National Assessment of Educational Progress, only 35 percent of fourth graders were at or above proficiency level in reading.

Under current law, each school district is required to administer a reading instrument at the kindergarten, first, and second grade levels. Chronically low performing schools are required to take actions to improve academic outcomes, or else risk closure or reconstitution. This bill:

Requires the commissioner of education (commissioner), using funds appropriated for that purpose, to establish a reading excellence team pilot program.

Provides that a school district is eligible to participate in the pilot program if, as determined by the commissioner, the school district has low student performance on a reading instrument administered in accordance with Section 28.006(c) (relating to the requirement that each school district administer the kindergarten and first and second grade levels), Education Code, or a third grade reading assessment instrument administered under Section 39.023(a) (relating to the requirement that the Texas Education Agency adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science), Education Code.

Requires that the pilot program:
- establish reading excellence teams composed of reading instruction specialists;
- allow an eligible school district to request the assistance of a reading excellence team; and
- provide a reading excellence team to a requesting eligible school district both to:
  - review with the school district the results of the assessments to determine campuses and classrooms for kindergarten through third grade with the greatest need of assistance; and
  - work with teachers on those campuses and in those classrooms to provide training necessary to improve student reading outcomes.

Requires the commissioner to adopt rules to administer the pilot program, including rules establishing qualifications and criteria for selecting reading instruction specialists for a reading excellence team.

Prescription Drug Misuse Awareness in Public Schools—S.B. 968
by Senator West—House Sponsor: Representative Naishtat

Although many types of prescription drugs are abused, there have been numerous reports of a growing, deadly epidemic of prescription painkiller abuse. Studies indicate that nearly three out of four prescription drug overdoses are caused by prescription painkillers, also called opioid pain relievers, and that in a recent year, these drugs were involved in more overdose deaths than cocaine and heroin combined. Prescription drug abuse by teens has also reportedly become a serious problem, with indications that after marihuana,
prescription and over-the-counter medications account for most of the top drugs abused by 12th graders. This bill:

Amends the Education Code to require the State Board of Education, in adopting the essential knowledge and skills for the health enrichment curriculum, to adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of nonmedical use of prescription drugs. Requires the Texas Education Agency to compile a list of evidence-based prescription drug misuse awareness programs from which a school district is required to choose a program to use in the district's middle school, junior high school, and high school health curriculums. Defines "evidence-based prescription drug misuse awareness program" as a program, practice, or strategy that has been proven to effectively prevent nonmedical use of prescription drugs among students, as determined by evaluations that use valid and reliable measures and that are published in peer-reviewed journals.

**Training Academies for Certain Reading Comprehension Teachers—S.B. 972**

*by Senators Kolkhorst and West—House Sponsor: Representative Deshotel*

There is an abundance of research available that illuminates how children learn to read and how schools can enhance that process, including research relevant to the fourth and fifth grades, typically the time in a child's education when the child is expected to start "reading to learn" as opposed to learning to read. Reading to learn involves more than a child's ability to quickly and easily recognize letters and words; it involves comprehension and inferential thinking, which help children derive enjoyment and enrichment from reading and build on their knowledge of the world while improving language skills. This bill:

Requires the commissioner of education (commissioner) to develop and make available reading-to-learn academies for teachers who provide reading comprehension instruction to students at the fourth or fifth grade level.

Requires that a reading-to-learn academy developed under Section 21.4554 (Reading-to-Learn Academies), Education Code, include effective instructional practices that promote student development of reading comprehension and inferential and critical thinking, provide training in the use of empirically validated instructional methods that are appropriate for struggling readers, and provide participating teachers with access to the academy training materials through the Internet after the teachers attend the academy. Authorizes a reading-to-learn academy developed under Section 21.4554 (Reading-to-Learn Academies), Education Code, to include material on writing instruction.

Requires the commissioner to adopt criteria for selecting teachers who are authorized to attend a reading-to-learn academy. Requires the commissioner, in adopting selection criteria, to grant 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 to provide a process through which a teacher not employed at such a campus 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.

Provides that a teacher who attends a reading-to-learn academy is entitled to receive a stipend in the amount determined by the commissioner, from funds appropriated for that purpose. Provides that a stipend so received is not considered in determining whether a district is paying the teacher the minimum monthly salary under Section 21.402 (Minimum Salary Schedule for Certain Professional Staff), Education Code.
Requires regional education service centers, on request of the commissioner, to assist the commissioner and the Texas Education Agency with training and other activities relating to the development and operation of reading-to-learn academies.

**School Marshal Notification and Confidentiality—S.B. 996**  
_by Senators Van Taylor and Bettencourt—House Sponsor: Representative Villalba_

Prompted by the 2012 Sandy Hook Elementary tragedy, the 83rd Texas Legislature passed legislation to establish the school marshal security program for public schools and open-enrollment charter schools. That legislation provides that only one school employee per 400 students may be designated as a school marshal. School marshals may act only as necessary to prevent an offense that could cause death or serious bodily injury, and are authorized to make arrests. The identity of school marshals is required, by law, to be kept confidential. The identity of a school marshal is only known to the school's head administrator and local law enforcement authorities.

The school marshal program is administered through the Texas Commission on Law Enforcement (TCOLE). Following the passage of that legislation, The Wall Street Journal submitted a Freedom of Information request to TCOLE requesting the identities of the districts and more specifically, the schools participating in the program. TCOLE submitted a request to the attorney general to deny access to this information, stating that it would subject the marshal to potential physical harm and would compromise the operational security of programs adopted by the school districts. In a decision dated October 9, 2014, the attorney general ruled against TCOLE and ordered the agency to release the information. This bill:

Requires a school district or open-enrollment charter school, if a parent or guardian of a student enrolled at the school inquires in writing, to provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. Provides that such a notice may not disclose the identity of the school marshal.

**Development of an Individualized Education Program—S.B. 1259**  
_by Senator Rodríguez—House Sponsor: Representative Allen_

Recent legislation provides that a student's written individualized education program (IEP) is required to only include information included in a model IEP form developed by the Texas Education Agency (TEA) and posted on TEA's website. This requirement was intended to give school districts the ability to limit which accommodations are included in an IEP, while retaining their discretion to include more accommodations than in the TEA model. In fact, federal law requires the IEP planning committees to consider other factors in addition to what is included in the model IEP.

However, TEA contends that due to the passage of this legislation, TEA lacks authority to continue to require school districts to develop the written report of the ARD (admission, review, and dismissal) committee and that the legislation eliminated certain other rules relating to the IEP planning process. This bill:

Requires TEA to develop and implement a statewide plan with programmatic content that includes procedures designed to accomplish certain objectives, including to ensure that each district develops a
process to be used by a teacher who instructs a student with a disability in a regular classroom setting to, among other duties, provide input in the development of the student's individualized education program.

Requires a school district, before a child is enrolled in a special education program of the district, to establish a committee composed of the persons required under 20 U.S.C. Section 1414(d) to develop the child's individualized education program. Requires a regular education teacher, to the extent practicable, to be the teacher who is responsible for implementing a portion of the child's individualized education program, if the committee is required to include a regular education teacher.

Requires that the written statement of the individualized education program document the decisions of the committee with respect to issues discussed at each committee hearing. Sets forth the requirements of the written statement. Requires that the written statement include the basis of the disagreement, if the individualized education program is not developed by agreement. Provides that each member of the committee who disagrees with the individualized education program developed by the committee is entitled to include a statement of disagreement in the written statement of the program.

**Junior Reserve Officer Training Corps Educator Certification—S.B. 1309**
*by Senator Menéndez—House Sponsor: Representative Deshotel*

Junior Reserve Officer Training Corps (JROTC) instructors are valuable members of the teaching community. After years of service, many instructors express interest in finding permanent teaching positions in Texas schools. However, this process can take years because the state does not currently recognize the hours spent as a JROTC instructor toward those hours required for a teaching certificate. This bill:

Amends the Education Code to require the State Board for Educator Certification (SBEC) to establish a standard Junior Reserve Officer Training Corps (JROTC) teaching certificate to provide JROTC instruction. Requires a person, in order to be eligible for the certificate, to hold a bachelor's degree from an institution of higher education that is, and at the time the person received the degree was, accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board, to satisfy the eligibility and testing requirements for certification as a JROTC instructor established by the branch of service in which the person served, and to complete an approved educator preparation program.

Requires SBEC to propose rules to approve educator preparation programs to prepare a person as a teacher for JROTC teaching certification and establish requirements under which a person's training and experience acquired during the person's military service serves as proof of the person's demonstration of subject matter knowledge if that training and experience is verified by the branch of service in which the person served and under which a person's employment by a school district as a JROTC instructor before the person was enrolled in an educator preparation program or while the person is enrolled in an educator preparation program is applied to satisfy any student teaching, internship, or field-based experience program requirement. Establishes that a person is not required to hold a JROTC teaching certificate to be employed by a school district as a JROTC instructor. Requires SBEC, not later than January 1, 2016, to propose rules relating to the establishment of a JROTC teaching certificate.
Education of Homeless Students—S.B. 1494
by Senator Uresti et al.—House Sponsor: Representative Chris Turner

The 83rd Legislature passed legislation to assist high school students in substitute care with graduation requirements. However, youth who are classified as homeless face hurdles in their personal life that can have detrimental effects on their ability to succeed in school. Several simple measures will help negate a few of the negative externalities of being homeless and work to raise the graduation rate among the homeless student population. This bill:

Provides that the legislature finds that students who are homeless or in substitute care are faced with numerous transitions during their formative years, and students who are homeless or in substitute care who move from one school to another are faced with special challenges to learning and future achievement.

Defines "students who are homeless."

Requires the Texas Education Agency, in recognition of the challenges faced by students who are homeless or in substitute care, to provide certain assistance in the transition of such students from one school to another.

Requires the district from which a student transfers, if an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, to award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred.

Adult Students Receiving Special Education Services—S.B. 1867
by Senator Zaffirini—House Sponsor: Representative Aycock

A school is required to maintain an Individualized Education Program (IEP) for each child with a disability who attends the school. An IEP can extend for a number of years past a typical high school graduation date in order to ensure that a given student receives necessary services during the transition from secondary to postsecondary education. Many students with IEPs complete all credit requirements for graduation and even walk across the stage on graduation day but remain enrolled as high school students to receive transition services. This bill:

Amends the Education Code to include among the students the commissioner of education is required to exclude in computing school district completion rates for grade levels 9 through 12 students who are at least 18 years of age as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission and have satisfied the credit requirements for high school graduation, have not completed their individualized education program under state regulations and the federal Individuals with Disabilities Education Act, and are enrolled and receiving individualized education program services.
Adult and High School Dropout Recovery Programs—S.B. 2062
by Senators Watson and Larry Taylor—House Sponsor: Representative Farney

The legislature recently established the adult high school diploma and industry certification charter school pilot program for adults 19 to 50 years of age. In 2007, the legislature amended the statute to separate older, non-traditional students from traditional students under 18 years of age. A student who has not attended school in the three prior school years may not be placed with a student who is 18 years of age or younger in a classroom setting, cafeteria, or other district-sanctioned school activity. However, the student may attend a school-sponsored event that is open to the public.

As a result, an entity that is granted a charter to operate both an adult education program and a dropout recovery program serving students 17 and older may not place students of mixed ages in the same facility, classroom setting or learning environment, or cafeteria. This bill:

Applies only to an open-enrollment charter school designated as a dropout recovery school if the enrollment of the school consists only of students 17 years of age and older and an adult education program provided under a certain high school diploma and industry certification charter school pilot program.

Authorizes an entity granted a charter to operate a charter school as described above and a charter to operate an adult education program as described above for the purpose of providing services to students enrolled in the charter school and the adult education program to place students, regardless of the age of the students, at the same facility and in the same classroom setting or learning environment, the same cafeteria, or the same activity sanctioned by the school and the program, notwithstanding any other law.
Information Relating to Down Syndrome—H.B. 3374
by Representative Morrison et al.—Senate Sponsor: Senators Lucio and Creighton

Medical groups recommend, as a best practice, providing current, accurate information about Down syndrome to parents at the time they are told their fetus or infant has the disorder and also connecting the parents with a local Down syndrome association at that time. Anecdotal evidence, as well as published academic studies, confirm that many women want but do not receive such information at the time they receive a prenatal or postnatal diagnosis, which leaves them not only uninformed but also isolated and alone. H.B. 3374 seeks to address these concerns. This bill:

Defines "Down syndrome" and "health care provider."

Requires the Department of State Health Services (DSHS) to make available information regarding Down syndrome that includes: information addressing physical, developmental, educational, and psychosocial outcomes, life expectancy, clinical course, and intellectual and functional development for individuals with Down syndrome; information regarding available treatment options for individuals with Down syndrome; contact information for national and local Down syndrome education and support programs, services, and organizations, including organizations in Houston, Dallas, San Antonio, and Austin, and information hotlines, resource centers, and clearinghouses; and any other information required by DSHS.

Requires that the information provided be current, evidence-based information, published in English and Spanish, that has been reviewed by medical experts and local Down syndrome organizations and does not explicitly or implicitly present pregnancy termination as an option when a prenatal test indicates that the unborn child has Down syndrome.

Requires DSHS to make the information available on the DSHS Internet website in a format that may be easily printed.

Requires a health care provider who administers or causes to be administered a test for Down syndrome or who initially diagnoses a child with Down syndrome to provide the information to: expectant parents who receive a prenatal test result indicating a probability or diagnosis that the unborn child has Down syndrome or a parent of a child who receives a test result indicating a probability or diagnosis that the child has Down syndrome or a diagnosis of Down syndrome.

Authorizes a health care provider, in addition to the information provided by DSHS, to provide additional information about Down syndrome that is current and evidence-based and has been reviewed by medical experts and national Down syndrome organizations.

Provides that, notwithstanding any other law, this bill does not impose a standard of care or create an obligation or duty that provides a basis for a cause of action against a health care provider.

Prohibits a health care provider from being held civilly or criminally liable for failing to provide the information described in the bill.
Adult Stem Cell Research—H.B. 177

by Representative Zedler et al.—Senate Sponsor: Senator Bettencourt et al.

Human stem cell research is currently being conducted at universities across Texas. This research is supported by a variety of funding sources, including federal, state, and local funds, as well as funding from nonprofit and private for-profit entities. In order to further adult stem cell research through a variety of activities and to address the collection and use of adult stem cells, H.B. 177 seeks to create the Texas Adult Stem Cell Research Coordinating Board. This bill:

Defines "adult stem cell," "consortium," "institution of higher education," "program," and "research coordinating board."

Provides that the Texas Adult Stem Cell Research Coordinating Board is composed of seven members appointed as follows: three members who are interested persons, including at least one person who represents an institution of higher education and one person who is a representative of an advocacy organization representing patients, appointed by the governor; two members who are interested persons appointed by the lieutenant governor; and two members who are interested persons appointed by the speaker of the House of Representatives.

Requires the governor to designate as the presiding officer of the Texas Adult Stem Cell Research Coordinating Board a board member who represents an institution of higher education and provides that the presiding officer serves in that capacity at the will of the governor.

Provides that the members of the Texas Adult Stem Cell Research Coordinating Board serve staggered six-year terms and requires the appropriate appointing authority, if a vacancy occurs on the board, to appoint, in the same manner as the original appointment, another person to serve for the remainder of the unexpired term.

Prohibits a person from being a member of the Texas Adult Stem Cell Research Coordinating Board if: the person is an officer, employee, or paid consultant of a Texas trade association in the field of medicine; the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of medicine; the person is a member of the Texas Higher Education Coordinating Board (THECB); or if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Requires the Texas Adult Stem Cell Research Coordinating Board to establish the Texas Adult Stem Cell Research Consortium and provides that the consortium is composed of participating institutions of higher education and businesses that accept public money for adult stem cell research or otherwise agree to participate in the consortium.

Requires the Texas Adult Stem Cell Research Coordinating Board to administer the adult stem cell research program to: make grants and loans to consortium members for certain purposes; support consortium members in all stages of the process of developing treatments and cures based on adult stem cell research, beginning with initial laboratory research through successful clinical trials; establish appropriate regulatory standards and oversight bodies; and develop research priorities, guidelines, and procedures for providing grants and loans for specific research projects conducted by consortium members.
Requires that the priorities, guidelines, and procedures for providing grants and loans developed by the Texas Adult Stem Cell Research Coordinating Board require that the grants and loans be made on a competitive, peer review basis.

Requires that the adult stem cell research program be funded by gifts, grants, and donations and prohibits the program from being funded by legislative appropriations.

Requires the Texas Adult Stem Cell Research Consortium to solicit, and provides that the Texas Adult Stem Cell Research Coordinating Board may accept on behalf of the consortium, a gift, grant, or donation made from any public or private source for the purpose of promoting adult stem cell research or commercialization.

Requires the Texas Adult Stem Cell Research Coordinating Board, not later than September 1 of each even-numbered year, to submit a report of the board's activities and recommendations to THECB, the governor, the lieutenant governor, the speaker of the House of Representatives, and the presiding officer of each legislative standing committee or subcommittee with jurisdiction over higher education.

Provides that blood obtained by a blood bank may be used for the collection of adult stem cells if the donor consents in writing to that use.

Requires a person using adult stem cells in the provision of health care to use adult stem cells that are properly manufactured and stored and authorizes a person to only use adult stem cells in a clinical trial approved by the United States Food and Drug Administration (FDA).

Authorizes a hospital to use adult stem cells in a procedure if: a physician providing services at the hospital determines that the use of adult stem cells in the procedure is appropriate; the patient consents in writing to the use; the adult stem cells are properly manufactured and stored; the adult stem cells are being used in a clinical trial approved by the FDA; the manufacturing processes for the adult stem cells satisfy current good manufacturing practices adopted by the FDA; and appropriate state and federal guidelines on the use of adult stem cells are followed.

Requires the governor, lieutenant governor, and the speaker of the House of Representatives, as soon as practicable after the effective date of the bill, to appoint members to the Texas Adult Stem Cell Research Coordinating Board as follows: the governor is required to appoint one member to a term expiring February 1, 2017, one member to a term expiring February 1, 2019, and one member to a term expiring February 1, 2021; the lieutenant governor is required to appoint one member to a term expiring February 1, 2019, and one member to a term expiring February 1, 2021; and the speaker of the House of Representatives is required to appoint one member to a term expiring February 1, 2019, and one member to a term expiring February 1, 2021.

Requires the Texas Adult Stem Cell Research Coordinating Board, not later than September 1, 2016, to submit the first report of the board's activities and recommendations as required by the bill.
Regional EMD Resource Centers Program—H.B. 479
by Representative Bell et al.—Senate Sponsor: Senator Perry

The University of Texas Medical Branch at Galveston (UTMB) area health education center currently administers the regional emergency medical dispatch (EMD) resource centers program. This bill:

Transfers the administration of the regional EMD resource centers program from the area health education center at UTMB to the Commission on State Emergency Communications (CSEC).

Transfers to CSEC all unspent and unobligated funds appropriated by the legislature to UTMB on behalf of the area health education center to fund the regional EMD resources centers program.

Authorizes CSEC, with the agreement of the UTMB area health education center, to accept the transfer of any records, employees, or real or personal property of the center relating to the operation of the regional EMD resource centers program.

Study of the Benefits of Certain Procedures to Treat Birth Defects—H.B. 606
by Representative Sarah Davis—Senate Sponsor: Senator Huffman

The use of prenatal surgical procedures to reverse chronic, life-long health conditions is showing much promise at fetal centers across the country. Medical facilities in Texas have been performing corrective procedures and conducting research to advance further procedures into the trial phase. Interested parties assert that, with the potential to completely correct a debilitating, chronic health condition in-utero, such procedures could provide significant cost savings to the Texas Medicaid program. H.B. 606 provides for a study to determine which in-utero procedures will have a positive fiscal impact on the Texas Medicaid program. This bill:

Requires the Health and Human Services Commission (HHSC) to conduct a study to evaluate the benefits of prenatal surgical procedures to treat birth defects.

Requires that the procedures studied include fetoscopic placental laser ablation, maternal-fetal surgery, and any other type of prenatal surgical procedure that is or becomes the standard of practice for treating a birth defect.

Requires the study to analyze the difference in average total cost to the Medicaid program, private health benefit plan coverage, and individuals and other payors between conducting a prenatal surgical procedure and a postnatal procedure to treat a birth defect, including any continuing treatments needed after either procedure, and to analyze any improvement in survival rates, long-term outcomes, and quality of life for children with birth defects following a prenatal surgical procedure as compared to a postnatal procedure to treat a birth defect.

Requires HHSC, not later than December 1, 2016, to submit a written report on the results of the study to the governor, lieutenant governor, speaker of the House of Representatives, House Committee on Public Health, and Senate Committee on Health and Human Services.

Defines "birth defect."
Provides that the bill's provisions expire on September 1, 2017.

Disposition of Fetal Remains—H.B. 635
by Representative Price et al.—Senate Sponsor: Senators Nelson and Zaffirini

Currently, some parents who experience a miscarriage are not guaranteed access to the remains of the unborn child for the purpose of burial. Some hospitals consider the remains of a fetus as human waste before a certain gestational period and dispose of the fetal remains in accordance with the hospital's disposal procedures for other human waste, including bandages, needles, and organs. This bill:

Requires a hospital to release the remains of an unintended, intrauterine fetal death on the request of a parent of the unborn child, in a manner appropriate under law and as is the hospital's practice for the disposition of a human body.

Requires a hospital, if the remains of an unintended, intrauterine fetal death weigh less than 350 grams, to release the remains on the request of a parent of the unborn child, in a manner that is appropriate under law and consisted with hospital policy.

Species of Mosquito Considered Public Nuisances—H.B. 819
by Representative Sheffield—Senate Sponsor: Senator Zaffirini

While it was previously thought that only one species of mosquito carried the West Nile Virus, recent studies indicate that 65 or more species of mosquito may carry the virus. Moreover, mosquito species carry numerous potentially life-threatening viruses.

Currently, only Culex quinquefasciatus is considered a public health nuisance in a collection of water. This bill:

 Strikes Culex quinquefasciatus as the only mosquito species to be considered a public health nuisance in a collection of water, allowing local public health departments to conserve dollars used to test mosquito larvae and to remove all mosquito species that threaten public health.

Disposition of Placenta From Hospital or Birthing Center—H.B. 1670
by Representative Sheets et al.—Senate Sponsor: Senator Watson

For a variety of reasons, some women prefer to take home their placentas after giving birth. Current statute does not address this practice, leading to questions of public safety and individual rights to the placenta. This bill:

Requires a hospital or birthing center without a court order to allow a woman who has given birth in the facility, or a spouse of the woman if the woman is incapacitated or deceased, to take possession of and remove from the facility the placenta if the woman tests negative for infectious diseases as evidence by the results of the diagnostic testing and the person taking possession of the placenta signs a form prescribed by the Department of State Health Services (DSHS) acknowledging that the person has received from the hospital or birthing center educational information prescribed by DSHS concerning the spread of blood-
borne disease from placentas, the danger of ingesting formalin, and the proper handling of placentas, and that the placenta is for personal use.

Provides that a person removing a placenta from a hospital or birthing center under this section may only retain the placenta for personal use and prohibits the person from selling the placenta.

Requires a hospital or birthing center to retain a signed form with the woman's medical records.

Provides that the bill does not prohibit a pathological examination of the delivered placenta that is ordered by a physician or required by a policy of the hospital or birthing center.

Prohibits a woman or the woman's spouse from interfering with a pathological examination of the delivered placenta that is ordered by a physician or required by a policy of the hospital or birthing center.

Provides that a hospital or birthing center that allows a person to take possession of and remove from the facility a delivered placenta in compliance with this bill is not required to dispose of the placenta as medical waste.

Provides that a hospital or birthing center that acts in accordance with this bill is not liable for the act in a civil action, a criminal prosecution, or an administrative proceeding.

Requires DSHS to develop the form and the educational information required by this bill and post a copy of the form and information on the DSHS Internet website.

Requires the executive commissioner of the Health and Human Services Commission, not later than December 1, 2015, to adopt the rules necessary to implement the provisions of this bill.

Palliative care, sometimes referred to as supportive care, is specialized medical care for people with serious illnesses, the focus of which is to provide patients with relief from the symptoms and stress of their illness. It has been shown to improve quality of life and survival rates, in addition to creating cost efficiencies. Interested parties contend that a lack of understanding about palliative care remains one of the chief barriers preventing access to these services. This bill:

Requires the Health and Human Services Commission (HHSC) to establish the Palliative Care Interdisciplinary Advisory Council (advisory council) to assess the availability of patient-centered and family-focused palliative care in this state.

Provides that the advisory council is subject to the Texas Sunset Act and, unless continued by the legislature, is abolished on September 1, 2019.

Provides that the advisory council is composed of the members appointed by the executive commissioner of HHSC.
Requires the advisory council to include: at least five physician members, including two who are board certified in hospice and palliative care and one who is board certified in pain management; three palliative care practitioner members, including two advanced practice registered nurses who are board certified in hospice and palliative care and one physician assistant who has experience providing palliative care; at least three members with experience as an advocate for patients and the patients' family caregivers and who are independent of a hospital or other health care facility, including at least one member who is a representative of an established patient advocacy organization; ex officio representatives of HHSC or another state agency as the executive commissioner determines appropriate; and four health care professional members, including a nurse, a social worker, a pharmacist, and a spiritual care professional, with: experience providing palliative care to pediatric, youth, or adult populations; expertise in palliative care delivery in an inpatient, outpatient, or community setting; or expertise in interdisciplinary palliative care.

Provides that advisory council members serve at the pleasure of the executive commissioner of HHSC.

Provides that an advisory council member serves a four-year term and requires that a person be appointed to fill the vacancy for the unexpired term, if a vacancy occurs on the advisory council.

Requires advisory council members to elect a chair and a vice chair and establish the duties of the chair and the vice chair.

 Requires the executive commissioner of HHSC to set a time and place for regular meetings, which must occur at least twice each year.

Prohibits a member of the advisory council from receiving compensation for service on the advisory council but provides that a member is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the advisory council.

Requires the advisory council to consult with and advise HHSC on matters related to the establishment, maintenance, operation, and outcome evaluation of the palliative care consumer and professional information and education program.

Requires the advisory council, not later than October 1 of each even-numbered year, to submit a biennial report to the standing committees of the senate and the house of representatives with primary jurisdiction over health matters on: the advisory council's assessment of the availability of palliative care in this state for patients in the early stages of serious disease; the advisory council's analysis of barriers to greater access to palliative care; and the advisory council's analysis of the policies, practices, and protocols in this state concerning patients' rights related to palliative care, including: whether a palliative care team member may introduce palliative care options to a patient without the consent of the patient's attending physician; the practices and protocols for discussions between a palliative care team member and a patient on life-sustaining treatment or advance directives decisions; and the practices and protocols on informed consent and disclosure requirements for palliative care services.

Requires HHSC, in consultation with the advisory council, to establish a statewide palliative care consumer and professional information and education program to ensure that comprehensive and accurate information and education about palliative care are available to the public, health care providers, and health care facilities.
Requires HHSC to make available on its Internet website information and resources regarding palliative care, including links to external resources regarding palliative care, continuing education opportunities for health care providers; information about palliative care delivery in the home, primary, secondary, and tertiary environments, and consumer educational materials regarding palliative care, including hospice care.

Provides that notwithstanding any other law, the advisory council and the information and education program established under this bill do not create a cause of action or create a standard of care, obligation, or duty that provides a basis for a cause of action.

Requires HHSC, not later than December 1, 2015, to establish the advisory council and requires the executive commissioner to appoint the advisory council members.

Information Maintained in the Immunization Registry—H.B. 2171

by Representative Sheffield et al.—Senate Sponsor: Senators Zaffirini and Rodríguez

Currently, the parent, managing conservator, or guardian of a child can consent to placement of the child's immunization records into the state's secure, confidential immunization registry. When the child turns 18 years of age, however, consent must be obtained anew if the person wishes for his or her immunization records to continue to be maintained in the registry. If additional consent is not received, the records are removed. Immunization records are frequently needed after the age of 18 for college admissions, international travel, changing health care providers, or enlisting in the military. By allowing immunization records to be maintained in the state's registry until a person reaches 26 years of age, young adults would have the confidence that their information is kept safe and available if they need it at a future time. This bill:

Provides that the written or electronic consent required for an individual younger than 18 years of age is required to be obtained only one time.

Requires that the written or electronic consent of the individual's parent, managing conservator, or guardian be submitted to the Department of State Health Services (DSHS) before the individual's 18th birthday.

Authorizes the individual's immunization information, after consent is submitted, to be included in the registry until the individual becomes 26 years of age unless the consent is withdrawn in writing or electronically, or renewed after the individual's 18th birthday.

Authorizes a parent, managing conservator, or guardian of a minor to provide the consent by using an electronic signature on the minor's birth certificate.

Deletes existing text providing that the consent is valid until the individual becomes 18 years of age unless the consent is withdrawn in writing or electronically.

Provides that the written or electronic consent required for an individual who is 18 years of age or older is required to be obtained only one time and must be received from the individual before the information may be released.
Authorizes an individual's legally authorized representative or the individual, after the individual has attained 18 years of age, to consent in writing or electronically for the individual's information to remain in the registry.

Prohibits DSHS from including in the registry the immunization information of an individual who is 26, rather than 18, years of age or older until written or electronic consent has been obtained.

Deletes existing text authorizing an individual's legally authorized representative or the individual, after the individual has attained 18 years of age, to consent in writing or electronically for the individual's information to remain in the registry after the individual's 18th birthday and for the individual's subsequent immunizations to be included in the registry.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) by rule to develop guidelines and procedures for obtaining consent from an individual after the individual's 18th birthday, including procedures for retaining immunization information in a separate database that is inaccessible by any person other than DSHS during the eight-year period during which an individual who is 18 years of age or older, rather than the one-year period during which an 18-year-old, may consent to inclusion in the registry.

Requires DSHS, after an individual's 18th birthday, to make a reasonable effort to provide notice to an individual whose immunization information is included in the registry with consent that was provided by a parent, managing conservator, or guardian.

Requires that the reasonable effort include at least two attempts by DSHS to provide the notice required by the bill by telephone or e-mail, by regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider, school district, or institution of higher education.

Requires that the notice inform the individual that the individual's immunization records will be included in the registry until the date of the individual's 26th birthday unless the individual or the individual's legally authorized representative: withdraws consent in writing or electronically before that date or provides consent for the records to continue to be included in the registry.

Requires DSHS, after an individual's 25th birthday, to make a reasonable effort to provide notice to an individual whose immunization information is included in the registry with consent that was provided and has not been renewed and requires that the reasonable effort include at least two attempts by DSHS to provide the notice required by this subsection by telephone or e-mail, by regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider or institution of higher education.

**Danger of Heatstroke for Child Left Unattended in Motor Vehicle—H.B. 2574**

*by Representatives Johnson and Guillen—Senator Sponsor: Senator Rodriguez*

The death of a child due to prolonged heat exposure while left unattended in a motor vehicle is largely due to a caregiver's lack of awareness of the dangers of leaving children in cars, even during moderately hot weather. This bill:
Requires a hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant to provide the woman and the father of the infant, if possible, or another adult caregiver for the infant, with a resource pamphlet that addresses the danger of heatstroke for a child left unattended in a motor vehicle.

Requires the Department of State Health Services (DSHS), not later than December 1, 2015, to make the informational materials contained in the resource pamphlet available on its Internet website.

Health Information Exchange—H.B. 2641

by Representative Zerwas et al.—Senate Sponsor: Senator Schwertner

Texas health care providers have invested millions of dollars implementing electronic health record systems in an effort to improve the quality of care delivered to patients and to help reduce the overall costs of health care. A fundamental capability of those systems is to exchange patient and test data using national standards for interoperability developed through the American National Standards Institute. However, it is reported that providers who send information to the state's health and human services agencies are at times unable to use their electronic systems to make timely, efficient, and accurate exchanges. Interested parties assert that as these agencies develop new reporting systems, every effort should be made to build those systems to be compatible with provider systems. The parties contend that certain laws governing the reporting of public health data to the Department of State Health Services (DSHS) also need to be amended to recognize the emergence of health information exchanges as a way for required public health reporting to be performed on behalf of a provider. This bill:

Defines "gross negligence," "health care liability claim," "health care provider," "health information exchange," and "physician."

Provides that the use of, failure to use, or existence of a health information exchange, notwithstanding any other law, does not establish a standard of care, duty, or obligation that forms the basis for a cause of action applicable to a health care provider for obtaining, using, or disclosing patient information.

Provides that, notwithstanding any other law, information or evidence relating to a health information exchange is not admissible in a civil or administrative proceeding for the purpose of establishing a standard of care, duty, or obligation that forms the basis for a cause of action in a proceeding, including a health care liability claim, that involves a health care provider.

Provides that the health care provider, unless a health care provider acts with intent or gross negligence, is not liable for any damages, penalties, or other relief related to: the health care provider's or another health care provider's obtainment of or failure to obtain patient information from a health information exchange; the health care provider's or another health care provider's disclosure of or failure to disclose patient information to a health information exchange; the health care provider's or another health care provider's reliance on inaccurate patient information obtained from or disclosed by a health information exchange; or the obtainment, use, or disclosure by a health information exchange, another health care provider, or any other person, in violation of federal or state law, of any patient information that the health care provider provided to a health information exchange or to another health care provider in compliance with the Health Insurance Portability and Accountability Act of 1996 and other applicable federal and state law.
Provides that nothing in this bill may be construed to create a cause of action or to create a standard of care, obligation, or duty that forms the basis for a cause of action.

Provides that the health information exchange, unless a health information exchange acts with intent or gross negligence, is not liable for any damages, penalties, or other relief related to: a health care provider's obtainment of or failure to obtain patient information from the health information exchange; a health care provider's disclosure of or failure to disclose patient information to the health information exchange; a health care provider's reliance on inaccurate patient information obtained from or disclosed by the health information exchange; or the obtainment, use, or disclosure by a health care provider or any other person, in violation of federal or state law, of any patient information that was provided to the person by the health information exchange in compliance with the Health Insurance Portability and Accountability Act of 1996, other applicable federal and state law, and the health information exchange's policies.

Provides that the protections, immunities, and limitations of liability provided by this bill are in addition to any other protections, immunities, and limitations of liability provided by other law.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to ensure that: HHSC or a health and human services agency, in sending protected health information to a health care provider or receiving protected health information from a health care provider, and for which planning or procurement begins on or after September 1, 2015, are capable of sending or receiving that information in accordance with the applicable data exchange standards developed by the appropriate standards development organization accredited by the American National Standards Institute; if national data exchange standards do not exist for a system, HHSC makes every effort to ensure the system is interoperable with the national standards for electronic health record systems; and HHSC and each health and human services agency establish an interoperability standards plan for all information systems that exchange protected health information with health care providers.

Requires the executive commissioner of HHSC, not later than December 1 of each even-numbered year, to report to the governor and the Legislative Budget Board (LBB) on HHSC’s and the health and human services agencies’ measurable progress in ensuring that the information systems are interoperable with one another and meet the appropriate standards.

Requires that the executive commissioner’s report to the governor and LBB include an assessment of the progress made in achieving HHSC goals related to the exchange of health information, including facilitating care coordination among the agencies, ensuring quality improvement, and realizing cost savings.

Authorizes the executive commissioner of HHSC by rule to develop and authorizes HHSC to implement a system to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information if feasible and cost-effective.

Provides that, in this bill, "health care provider" and "provider of health care services" include a physician.

Prohibits HHSC, notwithstanding any other law, from reimbursing providers under Medicaid for the provision of home telemonitoring services on or after September 1, 2019, rather than on or after September 1, 2015.
Requires the executive commissioner of HHSC to prescribe the form and method of reporting under this bill, which may be in writing, by telephone, by electronic data transmission, through a health information exchange if requested and authorized by the person required to report, or by other means.

Authorizes a health information exchange, notwithstanding Sections 81.046, 82.009, 161.0073, and 161.008, Health and Safety Code, to access and transmit health-related information if the access or transmittal is: made for the purpose of assisting in the reporting of health-related information to the appropriate agency; requested and authorized by the appropriate health care provider, practitioner, physician, facility, clinical laboratory, or other person who is required to report health-related information; made in accordance with the applicable consent requirements for the immunization registry under Subchapter A, Chapter 161, Health and Safety Code, if the information being accessed or transmitted relates to the immunization registry; and made in accordance with the requirements of this subchapter and all other state and federal law.

Authorizes a health information exchange to only use and disclose the information that it accesses or transmits in compliance with Subchapter D (Health Information Exchanges), Chapter 182, Health and Safety Code, as added by this bill, and all applicable state and federal law, and prohibits a health information exchange from exchanging, selling, trading, or otherwise making any prohibited use or disclosure of the information.

Requires a health information exchange that collects, transmits, disseminates, accesses, or reports health-related information under this subchapter to comply with all applicable state and federal law, including secure electronic data submission requirements.

Provides that a person who collects, transmits, disseminates, accesses, or reports information on behalf of or as a health information exchange commits an offense if the person allows health-related information in the possession of a health information exchange to be improperly used or disclosed and provides that an offense under this bill is a Class A misdemeanor.

Provides that collecting, transmitting, disseminating, accessing, or reporting information through a health information exchange does not alone deprive a physician or health care provider of an otherwise applicable immunity or defense.

**Disclosure of Communicable Disease Information to First Responders—H.B. 2646**

*by Representative Giddings—Senate Sponsor: Senator West*

Last year, multiple cases of Ebola were confirmed in Texas and around 100 people were monitored by local authorities for weeks after their direct or indirect contact with an Ebola patient. Interested parties note that it became apparent during this monitoring period that neither the local authorities nor the center that was established to coordinate all of the stakeholders were authorized by state law to release monitoring information to first responders. This bill:

Provides that medical or epidemiological information, including information linking a person who is exposed to a person with a communicable disease, may be released to governmental entities that provide first responders who may respond to a situation involving a potential communicable disease of concern and need the information to properly respond to the situation or to a local health department or health authority
for a designated monitoring period based on the potential risk for developing symptoms of a communicable disease of concern.

Requires a local health department or health authority to provide to first responders the physical address of a person who is being monitored by the local department or authority for a communicable disease for the duration of the disease's incubation period.

Requires the local health department, health authority, or other governmental entity, as applicable, to remove the person's physical address from any computer-aided dispatch system after the monitoring period expires.

Provides that only the minimum necessary information may be released as determined by a health authority, local health department, governmental entity, or department.

Provides that reports, records, and information relating to cases or suspected cases of diseases or health conditions may be released to the extent necessary during a public health disaster, including an outbreak of a communicable disease, to law enforcement personnel and first responders solely for the purpose of protecting the health or life of a first responder or the person identified in the report, record, or information.

Defines "first responder."

**Supplemental Assistance to Certain Recipients of Public Assistance—H.B. 2718**

*by Representative Parker et al.—Senate Sponsor: Senators Ellis and Rodriguez*

Breaking the cycle of poverty can be difficult for a variety of reasons. Interested parties have noted the willingness of nonprofit faith-based and community-based organizations to work alongside state agencies to provide assistance to those in need, whether that be through job training or some other form of assistance. This bill:

Defines "community-based organization" and "faith-based organization."

Requires the Health and Human Services Commission (HHSC) to establish a program under which faith-based and community-based organizations may, on the request of the applicant, contact and offer supplemental assistance to an applicant for benefits under: the financial assistance program under Chapter 31 (Financial Assistance and Service Programs), Human Resources Code; the medical assistance program under Chapter 32 (Medical Assistance Program), Human Resources Code; the supplemental nutrition assistance program under Chapter 33 (Nutritional Assistance Programs), Human Resources Code; or the child health plan program under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code.

Requires that an applicant, at the time of application for benefits, be informed about and given the opportunity to enroll in the program and be informed that enrolling in the program will not affect the person's eligibility for benefits.

Requires HHSC to develop a procedure under which faith- and community-based organizations may apply to participate in the program.
Requires the executive commissioner of HHSC to adopt rules to implement the program established under this section, including rules that: describe the types of faith- and community-based organizations that may apply to participate in the program and the qualifications and standards of service required of a participating organization; facilitate contact between a person who enrolls in the program and a faith- and community-based organization participating in the program that provides supplemental services that may be of assistance to the person; establish processes for the suspension, revocation, and periodic renewal of an organization's participation in the program, as appropriate; establish methods to ensure the confidentiality and appropriate use of applicant information shared with a participating organization; and permit a person enrolled in the program to terminate the person's enrollment in the program.

Requires HHSC, in establishing the program, to solicit expertise and assistance from interested persons, including faith-based and community-based organizations, and to establish a temporary work group to provide input and assistance.

Requires the executive commissioner of HHSC, as soon as practicable after the effective date of this bill, to adopt the rules necessary to implement the changes in law made by the bill.

Waiting Period Before Human Remains may be Cremated—S.B. 292
by Senators Nelson and Van Taylor—House Sponsor: Representative Crownover

Interested parties contend that the law regarding the waiting period for cremation needs to be amended in order to accommodate the religious beliefs of grieving families who wish to cremate loved ones as swiftly as possible. This bill:

Requires a justice of the peace or medical examiner's office authorized to grant a waiver of the waiting period before human remains may be cremated to adopt a written policy for requesting such a waiver.

Requires the justice of the peace or medical examiner's office, in adopting the written policy, to consider how a person makes a request and how the justice of the peace or medical examiner may process the request as quickly as possible.

Requires the written policy to outline the process of making a request for such a waiver during regular business hours and outside of regular business hours, including on a weekday or holiday.
Investigational Drugs—H.B. 21
by Representative Kacal et al.—Senate Sponsor: Senator Bettencourt

The United States Food and Drug Administration (FDA) has a "compassionate use" exemption that allows a terminally ill patient, with physician approval and after meeting certain criteria, access to drugs that are in the clinical trial phase, but not approved. Currently, the process to get a compassionate use exemption for terminal patients is arduous and lengthy at a phase in their illness when patients simply do not have time. H.B. 21 seeks to allow terminal patients to have quicker access to safe but experimental drugs that are often their last hope at saving their own lives. This bill:

Provides that a patient is eligible to access and use an investigational drug, biological product, or device if the patient has a terminal illness, attested to by the patient's treating physician; and the patient's physician, in consultation with the patient, has considered all other treatment options currently approved by FDA and determined that those treatment options are unavailable or unlikely to prolong the patient's life and has recommended or prescribed in writing that the patient use a specific class of investigational drug, biological product, or device.

Requires an eligible patient, before receiving an investigational drug, biological product, or device, to sign a written informed consent.

Authorizes a parent or legal guardian to provide informed consent on the patient's behalf if the patient is a minor or lacks the mental capacity to provide informed consent.

Authorizes the executive commissioner of the Health and Human Services Commission (HHSC) by rule to adopt a form for informed consent under the bill.

Authorizes, but does not require, a manufacturer of an investigational drug, biological product, or device to make available the manufacturer's investigational drug, biological product, or device to eligible patients in accordance with the bill if the patient provides to the manufacturer the informed consent required.

Requires the manufacturer, if the manufacturer makes such a product available, to do so without receiving compensation.

Provides that the provisions of this bill do not create a cause of action against a manufacturer of such a product or against any other person or entity involved in the care of an eligible patient using the product for any harm done to the eligible patient resulting from the product.

Prohibits an official, employee, or agent of this state from blocking or attempting to block an eligible patient's access to an investigational drug, biological product, or device under this chapter.

Prohibits the Texas Medical Board from taking any action against a physician's license, based solely on the physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product, or device, provided that the recommendations made to the patient meet the medical standard of care.
Pharmaceutical Substitution of Biological Products—H.B. 751
by Representative Zerwas et al.—Senate Sponsor: Senator Kolkhorst

The development and use of biologics, which refers to the class of biopharmaceutical therapies derived from living organisms or organic substances, has led to advancements in the treatment of difficult-to-manage diseases and disorders such as cancer, multiple sclerosis, rheumatoid arthritis, heart disease, HIV and AIDS, chronic renal failure, and Crohn's disease. A biosimilar, or follow-on biologic, is a product marketed after the expiration of a patent on an innovator biologic. Biosimilars have similar properties to existing biological products but are not identical. The federal Public Health Service Act provides for the approval of biosimilars, but a formal regulatory process is still being established by the United States Food and Drug Administration (FDA). This bill:

Defines "interchangeable" as a biological product that is designated as therapeutically equivalent to another product by the FDA.

Requires a pharmacist, if the price of a drug or biological product to a patient is lower than the amount of the patient's copayment under the patient's prescription drug insurance plan, to offer the patient the option of paying for the drug or biological product at the lower price instead of paying the amount of the copayment.

Requires a pharmacist to record on the prescription form the name, strength, and manufacturer or distributor of a drug or biological product dispensed.

Requires the dispensing pharmacist or the pharmacist's designee, not later than the third business day after the date of dispensing a biological product, to communicate to the prescribing practitioner the specific product provided to the patient, including the name of the product and the manufacturer or national drug code number. Sets forth methods of and procedure for communicating such information.

Requires the pharmacist, if a practitioner certifies on the prescription form that a specific prescribed brand is medically necessary, to dispense the drug or biological product as written by the practitioner and requires that the certification be made as required by the dispensing directive.

Provides that the bill does not permit a pharmacist to substitute a generically equivalent drug or interchangeable biological product unless the substitution is made as set forth.

Authorizes a pharmacist who receives a prescription for a drug or biological product for which there is one or more generic equivalents or one or more interchangeable biological products to dispense any of the generic equivalents or interchangeable biological products, with certain exceptions set forth.

Provides that a pharmacy that supplies a prescription by mail is considered to have complied with the provisions of the bill if the pharmacy includes on the prescription order form completed by the patient or the patient's agent language that clearly and conspicuously states that if a less expensive generically equivalent drug or interchangeable biological product is available for the brand prescribed, the patient or the patient's agent may choose between the generically equivalent drug or interchangeable biological product and the brand prescribed and allows the patient or the patient's agent to indicate the choice between the generically equivalent drug or interchangeable biological product and the brand prescribed.
Authorizes the pharmacy, if the patient or the patient's agent fails to indicate otherwise to a pharmacy on the prescription order form, to dispense a generically equivalent drug or interchangeable biological product.

Provides that a pharmacist who selects a generically equivalent drug or interchangeable biological product to be dispensed assumes the same responsibility for selecting the generically equivalent drug or interchangeable biological product as the pharmacist does in filling a prescription for a drug prescribed by generic or biological product name.

Prohibits a pharmacist from selecting a generically equivalent drug or interchangeable biological product unless the generically equivalent drug or interchangeable biological product selected costs the patient less than the prescribed drug or biological product.

Prohibits a pharmacist from charging for dispensing a generically equivalent drug or interchangeable biological product a professional fee higher than the fee the pharmacist customarily charges for dispensing the brand name drug or biological product prescribed.

Requires the Texas State Board of Pharmacy (TSBP) to adopt rules to provide a dispensing directive to instruct pharmacists on the manner in which to dispense a drug or biological product according to the contents of a prescription and requires that the rules adopted require the use of the phrase "brand necessary" or "brand medically necessary" on a prescription form to prohibit the substitution of a generically equivalent drug or interchangeable biological product for a brand name drug or biological product and be in a format that protects confidentiality as required by the Health Insurance Portability and Accountability Act of 1996.

Requires TSBP to maintain on TSBP's Internet website a link to FDA's list of approved interchangeable biological products.

**Payment Assistance for Insurance for Hemophilia Treatment—H.B. 1038**

*by Representatives Sheffield and Alonzo—Senate Sponsor: Senator Watson*

Hemophilia is a rare, usually inherited, bleeding disorder in which the blood does not clot properly, creating an increased risk for brain trauma, serious bruising, or internal bleeding in joints or muscles. Individuals with hemophilia and similar bleeding disorders must strictly adhere to their treatment plans, which involve intravenous infusions of blood clotting factor concentrates and often cost over $250,000 per year.

The Department of State Health Services (DSHS) hemophilia assistance program provides assistance in purchasing blood clotting factor products for eligible Texans, but interested parties assert that the program currently provides benefits to only a handful of individuals due in part to the high costs of these products. This bill:

Authorizes DSHS to provide insurance premium payment assistance to eligible persons with hemophilia. The premium payments would be in addition to an existing DSHS program that provides financial assistance for eligible persons to obtain blood, blood derivatives and concentrates, and other substances for use in medical or dental facilities or in the home. This would enhance the program's assistance options to allow a larger population to be served in a more cost-effective manner.
Administration of Epinephrine by Pharmacist—H.B. 1550
by Representative Zerwas et al.—Senate Sponsor: Senator Kolkhorst

Concerned parties note that a pharmacist's authority to administer an epinephrine auto-injector extends only to a patient who is having an allergic reaction as a result of a vaccination or immunization and not to an individual who enters the pharmacy experiencing anaphylactic shock or who goes into anaphylactic shock while in the pharmacy. The parties contend that this limitation has created an unnecessary public safety issue, particularly when the pharmacist has a life-saving device available. This bill:

 authorizes a pharmacist to administer an epinephrine auto-injector to a patient in an emergency situation.

 requires the Texas State Board of Pharmacy (TSBP) to adopt rules designed to implement the bill.

 authorizes a pharmacist to maintain, administer, and dispose of epinephrine auto-injector devices only in accordance with rules adopted by TSBP.

 requires a pharmacist who administers an epinephrine auto-injector device to a patient to report the use to the patient's primary care physician, as identified by the patient, if the patient has a primary care physician.

 provides that a pharmacist who in good faith administers an epinephrine auto-injector in an emergency situation is not liable for civil damages for an act performed in the administration unless the act is wilfully or wantonly negligent.

 prohibits a pharmacist from receiving remuneration for the administration of epinephrine through an auto-injector device but authorizes a pharmacist to seek reimbursement for the cost of the epinephrine auto-injector device.

 provides that the administration of an epinephrine auto-injector device to a patient in an emergency situation does not constitute the unlawful practice of any health care profession.

Telemedicine Services in School Setting; Medicaid Reimbursement—H.B. 1878
by Representative Laubenberg et al.—Senate Sponsor: Van Taylor

Recent advancements in telecommunications and video interfacing allow doctor and patient to communicate remotely without compromising accurate diagnosis, quality doctor-to-patient discussion, and monitoring of complex medical conditions. Proponents of this technology assert that such communication saves time and money for both doctor and patient and improves health care access. The proponents further contend that school-based telemedicine, which utilizes technology to connect children, pediatricians, school nurses, and parents, allows a physician and school nurse to promptly diagnose children and ensure that they receive appropriate follow-up treatment without requiring a parent to miss work, thereby reducing taxpayer costs because of fewer emergency room visits and improved health outcomes for children. This bill:

 requires the Health and Human Services Commission (HHSC) to ensure that Medicaid reimbursement is provided to a physician for a telemedicine medical service provided by the physician, even if the physician is not the patient's primary care physician or provider, if the physician is an authorized health care provider.
under Medicaid, the patient is a child who receives the service in a primary or secondary school-based setting, the parent or legal guardian of the patient provides consent before the service is provided, and a health professional is present with the patient during the treatment.

Requires HHSC to require that the primary care physician or provider be notified of the telemedicine medical service for the purpose of sharing medical information if a patient receiving a telemedicine medical service has a primary care physician or provider and consents or, if appropriate, the patient's parent or legal guardian consents. Requires that the notification, if any, include a summary of the service, including examination findings, prescribed or administered medications, and patient instructions in the case of a service provided to a child in a primary or secondary school-based setting.

Requires HHSC, if a patient receiving a telemedicine medical service in a primary or secondary school-based setting does not have a primary care physician or provider, to require that the patient's parent or legal guardian receive the required notification of a telemedicine medical service and a list of primary care physicians or providers from which the patient may select as the patient's primary care physician or provider.

**Direct Primary Care—H.B. 1945**

*by Representative Greg Bonnen et al.—Senate Sponsor: Senator Hancock*

Direct primary care is an innovative model for delivering and purchasing health care services that gives physicians and their patients an alternative to the third-party, fee-for-service system. In most instances, patients have unlimited access to their doctor—in person or by phone or email—for a full range of comprehensive primary care services in exchange for a flat fee.

H.B. 1945 seeks to improve access to direct primary care by providing for these arrangements outside the scope of state insurance regulation. This bill:

- Provides that a physician providing direct primary care is not an insurer or health maintenance organization, and the physician is not subject to regulation by the Texas Department of Insurance (TDI) for direct primary care.

- Provides that a medical service agreement is not health or accident insurance or coverage under Title 8, Insurance Code, and is not subject to regulation by TDI.

- Provides that a physician is not required to obtain a certificate of authority under the Insurance Code to market, sell, or offer a medical service agreement or provide direct primary care.

- Provides that a physician providing direct primary care does not violate Section 1204.055 (Contractual Responsibility for Deductibles and Copayments), Insurance Code.

- Prohibits a physician from billing an insurer or health maintenance organization for direct primary care that is paid under a medical service agreement.

- Prohibits the Texas Medical Board or another state agency from prohibiting, interfering with, initiating a legal or administrative proceeding against, or imposing a fine or penalty against, a physician solely because
the physician provides direct primary care or a person solely because the person pays a direct fee for direct primary care.

Prohibits a health insurer, health maintenance organization, or health care provider from prohibiting, interfering with, or initiating a legal or administrative proceeding against, or imposing a fine or penalty against, a physician solely because the physician provides direct primary care or a person solely because the person pays a direct fee for direct primary care.

Requires a physician providing direct primary care to provide written or electronic notice to the patient that a medical service agreement for direct primary care is not insurance, prior to entering into the agreement.

Provides definitions for "direct fee," "direct primary care," "medical service agreement," "physician," and "primary medical care service."

Requires that the bill does not apply to workers' compensation insurance coverage as defined by Section 401.011 (General Definitions), Labor Code.

Sentinel Surveillance Program for Certain Tropical Diseases—H.B. 2055
by Representative Sarah Davis—Senate Sponsor: Senator Schwertner

Neglected and emerging tropical diseases are surfacing in the United States and pose a significant threat to public health, as evidenced by the recent Ebola cases. Symptoms of these diseases can be debilitating and have chronic and adverse impacts on childhood development, pregnancy outcomes, and worker productivity. Informed observers note that regions with a warm tropical climate and significant populations living in poverty, such as the border regions of Texas, are particularly vulnerable to the spread of neglected tropical diseases, and estimates show that there may be as many as 250,000 cases of Chagas disease, commonly referred to as the kissing bug disease, in Texas today.

While these types of diseases are on the state's list of reportable diseases, the observers contend that they are not consistently tracked and that more research, data collection, and analysis are needed in order to assess the prevalence of these diseases in Texas. H.B. 2055 seeks to create a system to monitor the incidence, prevalence, and trends of neglected and emerging tropical diseases in Texas. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to establish in the Department of State Health Services (DSHS) a program to: identify by sentinel surveillance individuals infected with emerging or neglected tropical diseases; maintain a central database of laboratory-confirmed cases of emerging and neglected tropical diseases; and use the information in the database to investigate the incidence, prevalence, and trends of emerging and neglected tropical diseases.

Requires the executive commissioner of HHSC, in establishing the sentinel surveillance program for emerging and neglected tropical diseases, to consider the location of health facilities that collect locally emerging and neglected tropical disease information and the use, privacy, and security of existing data collected by health facilities.

Requires the executive commissioner to adopt rules to govern the operation of the program and carry out the intent of this bill, including rules that specify a system for selecting the demographic areas in which
DSHS collects information and identify the specific emerging and neglected tropical diseases that are included in the sentinel surveillance program and the manner in which diseases will be added to the program as necessary to reflect changing conditions.

Authorizes the executive commissioner of HHSC, to ensure an accurate source of data, to require a health facility or health professional to make available for review by DSHS or by an authorized agent medical records or other information in the facility’s or professional’s custody or control that relates to an occurrence of an emerging or neglected tropical disease.

Requires DSHS to reimburse a health facility or health professional for the actual costs incurred by the facility or professional in making copies of medical records or other information available to DSHS.

Requires the executive commissioner of HHSC by rule to prescribe the manner in which information is reported to DSHS.

Authorizes information collected and analyzed by DSHS or an authorized agent under this chapter to be placed in a central database to facilitate information sharing and provider education.

Authorizes DSHS to use the database to design and evaluate measures to prevent the occurrence of emerging and neglected tropical diseases and other health conditions and provide information and education to providers on the incidence of emerging and neglected tropical diseases.

Requires DSHS to make available to health facilities and health professionals educational and informational materials concerning emerging and neglected tropical diseases and information on the importance of monitoring and surveilling emerging and neglected tropical diseases.

Defines "emerging disease," "health facility," "local health unit," and "neglected tropical disease."

Provides that, except as specifically authorized, reports, records, and information furnished to a DSHS employee or to an authorized agent of DSHS that relate to cases or suspected cases of a health condition are confidential and may be used only for the purposes of this bill.

Provides that reports, records, and information relating to cases or suspected cases of health conditions in the possession of DSHS under the bill are not public information under Chapter 552, Government Code, and may not be released or made public on subpoena or otherwise except as provided by this chapter.

Requires DSHS to release medical, epidemiological, or toxicological information to medical personnel, appropriate state agencies, health authorities, regional directors, and public officers of counties and municipalities as necessary to comply with this bill and rules relating to the identification, monitoring, and referral of individuals infected with an emerging or neglected tropical disease or to appropriate federal agencies, such as the Centers for Disease Control and Prevention (CDC).

Authorizes DSHS to release medical, epidemiological, or toxicological information for statistical purposes, if released in a manner that prevents the identification of any person.
Provides that a health professional, a health facility, or an administrator, officer, or employee of a health facility subject to the bill is not civilly or criminally liable for divulging information required to be released under this chapter, except in a case of gross negligence or wilful misconduct.

Requires another state board, commission, agency, or governmental entity capable of assisting DSHS in carrying out the intent of the bill to cooperate with DSHS and furnish expertise, services, and facilities to the program.

**Centers of Excellence for Healthy Fetal Outcomes—H.B. 2131**

*by Representative Sarah Davis et al.—Senate Sponsor: Senator Huffman*

The use of prenatal medical procedures to reverse chronic, lifelong health conditions is showing much promise at fetal centers across the country. Two fetal centers are currently located in Texas: the Fetal Center at Children's Memorial Hermann Hospital and Texas Children's Fetal Center. Interested parties contend that the state could better utilize these centers by creating a center of excellence designation for qualified facilities that are expanding and integrating an advanced fetal care program and advancing existing long-term follow-up care for congenital anomalies. This bill:

Requires the Texas Department of Health (TDH), in consultation with the Perinatal Advisory Council, to designate as centers of excellence for fetal diagnosis and therapy one or more health care entities in the state, including institutions of higher education or programs of those institutions.

Requires the executive commissioner of the Health and Human Services Commission (HHSC), in consultation with TDH and the Perinatal Advisory Council, to adopt the rules necessary for a health care entity or program in this state to be designated as a center of excellence for fetal diagnosis and therapy.

Requires TDH, in consultation with the Perinatal Advisory Council, to appoint a subcommittee of that advisory council to advise the advisory council and TDH on the development of rules related to the designations made by TDH under the bill.

Requires the subcommittee to advise the advisory council and TDH regarding the criteria necessary for a health care entity or program in this state to receive a designation under the bill.

Requires the subcommittee to consist of individuals with expertise in fetal diagnosis and therapy.

Requires a majority of the members of the subcommittee to practice in those areas in a health profession in this state.

Authorizes the subcommittee to include national and international experts.

Requires that the rules adopted relating to the bill prioritize awarding a designation under this subchapter to a health care entity or program that: offers fetal diagnosis and therapy through an extensive multi-specialty clinical program that is affiliated and collaborates extensively with a medical school in this state and an associated hospital facility that provides advanced maternal and neonatal care in accordance with its level of care designation; demonstrates a significant commitment to research in and advancing the field of fetal diagnosis and therapy; offers advanced training programs in fetal diagnosis and therapy; and integrates an
advanced fetal care program with a program that provides appropriate long-term monitoring and follow-up care for patients.

Requires that the rules relating to the bill ensure that a health care entity or program that receives a center of excellence designation: provides or is affiliated with a hospital facility that provides advanced maternal and neonatal care in accordance with its level of care designation; implements and maintains a multidisciplinary health care team, including maternal fetal medicine specialists, pediatric and surgical specialists, neonatalists, nurses with specialized maternal and neonatal training, and other ancillary and support staff as appropriate to provide maternal, fetal, and neonatal services; establishes minimum criteria for medical staff, nursing staff, and ancillary and support personnel; measures short-term and long-term patient diagnostic and therapeutic outcomes; and provides to HHSC annual reports containing aggregate data on short-term and long-term diagnostic and therapeutic outcomes as requested or required by HHSC and makes those reports available to the public.

Requires the executive commissioner of HHSC to adopt rules required by the bill not later than March 1, 2017.

Requires the Department of State Health Services, not later than September 1, 2017, to begin awarding designations required by the bill to health care entities establishing eligibility.

**Local Provider Participation Funds—H.B. 2280**

_by Representatives VanDeaver and Clardy—Senate Sponsor: Senator Eltife_

In 2011, the State of Texas received federal approval of the Texas Transformation and Quality Improvement (1115) Waiver for health care funding. Because this system requires local governmental funds to support the program, the waiver tends to be more favorable to counties with a hospital district or other source of local funds. In 2013, the legislature passed legislation that granted certain counties in South Texas the option to create local provider participation funds (LPPFs). A county commissioners court is authorized to administer the fund, made up of fees paid by local hospitals. The fund can be utilized to apply for funding for eligible health care projects under the 1115 Waiver with a goal of improving health care in the community. This bill:

Establishes a health care provider participation program for certain counties in the Texas-Louisiana border region, which authorizes a county to collect mandatory payments from nonprofit hospitals, to be deposited into a local provider participation fund to fund intergovernmental transfers, draw down Medicaid supplemental payments, and subsidize indigent care programs.

**Reducing Workplace Violence Against Nurses—H.B. 2696**

_by Representative Howard et al.—Senate Sponsor: Senator Zaffirini_

Healthcare professions consistently are ranked among the most dangerous occupations in regard to risk of workplace assault. The Centers for Disease Control and Prevention (CDC) estimates that over the last decade, healthcare workers have accounted for approximately two-thirds of the non-fatal workplace violence injuries involving days away from work. This equates to being five times greater than the overall workforce. The CDC recognizes that nurses and aides who have the most direct contact with patients are
at higher risk of experiencing violence in a hospital setting. This risk not only threatens a nurse's person, but also poses a threat to patients by complicating the delivery of treatment. This bill:

Authorizes the Texas Center for Nursing Workforce Studies in the Health Provisions Resource Center at the Department of State Health Services (DSHS), to the extent existing funding is available, to conduct a study on workplace violence against nurses in hospitals, freestanding emergency medical care facilities, nursing facilities, and home health agencies.

Requires that a study conducted distinguish between verbal and physical violence; determine the practice areas, environments, and settings in which verbal or physical violence is likely to occur; identify practices that prevent or reduce verbal and physical violence against nurses; survey nurses regarding the type and frequency of verbal and physical violence the nurses have experienced in the preceding year and throughout the nurses' careers; and survey hospitals, freestanding emergency medical care facilities, nursing homes, and home health agencies regarding the occurrence of verbal and physical violence against nurses and specific strategies implemented to prevent verbal and physical violence, including required reporting of verbal and physical violence, reporting of physical assaults to law enforcement, and implementation of a violence prevention plan and the contents of and personnel covered by the plan.

Authorizes the Texas Center for Nursing Workforce Studies to contract with an independent researcher to conduct all or part of the study.

Requires the Nursing Advisory Committee to serve as the oversight committee for the study.

Requires the Texas Center for Nursing Workforce Studies, to the extent possible, to cooperate with DSHS and the Texas Board of Nursing to conduct the study and coordinate the surveys under this bill with surveys required by other provisions of law.

Requires the Texas Center for Nursing Workforce Studies, if the nursing resource section conducts a study under this section, to complete the study and publish the study findings not later than December 1, 2016.

Requires the executive commissioner of the Health and Human Services Commission (HHSC), as soon as practicable after the effective date of this bill, to adopt the rules necessary to implement the bill.

Defines "freestanding emergency medical care facility," "home health agency," "hospital," and "nursing facility."

*Nutrition, Hydration, and Life-Sustaining Treatment—H.B. 3074*  
by Representative Springer et al.—Senate Sponsor: Senator Schwertner et al.

Artificial nutrition and hydration can be beneficial for patients who are unable to consume food or water and can prolong life for months or even years. While artificial nutrition and hydration does not cure any terminal or irreversible illness, it can have a positive impact on a patient's health under the right circumstances. The current Texas advance directives law lacks clarity, given the complexity of end-of-life care, and its most glaring flaw is allowing food, water, and pain medication to be withdrawn with no medical standard for their withdrawal. This bill:
Amends Chapter 166 (Advance Directives), Health and Safety Code, to change references to "artificial nutrition and hydration" to "artificially administered nutrition and hydration" and to change references to "treatment decisions" to "health care or treatment decisions."

Entitles the patient or the person responsible for the health care decisions of the patient who makes a decision regarding the directive or treatment to receive a copy of the portion of the patient's medical record related to the treatment received by the patient in the facility for the lesser of the time period of the patient's current admission to the facility or the preceding 30 calendar days. Entitles the patient or the person responsible for the health care decisions of the patient to also receive a copy of all the patient's reasonably available diagnostic results and reports.

Requires that the patient be given available life-sustaining treatment pending transfer to another facility if the patient or the person responsible for the patient's health care decisions requests life-sustaining treatment that the attending physician has decided and the ethics or medical committee has affirmed to be medically inappropriate.

Provides that life-sustaining treatment includes life-sustaining medications and artificial life support such as artificially administered nutrition and hydration. Prohibits the withdrawal or withholding of pain management medication, medical procedures necessary to provide comfort, or any other health care provided to alleviate a patient's pain during this period.

Specifies that the attending physician, any other physician responsible for the care of the patient, and the health care facility are not obligated to provide life-sustaining treatment except for artificially administered nutrition and hydration after the 10th day after both the written decision and the patient's medical record are provided to the patient or the person responsible for the patient.

Authorizes a physician or health care facility to withhold artificially administered nutrition and hydration if, in their reasonable medical judgment, providing it would:

- hasten the patient's death;
- be medically contraindicated such that the provision of the treatment seriously exacerbates life-threatening medical problems not outweighed by the benefit of providing the treatment;
- result in substantial irremediable physical pain not outweighed by the benefit of providing the treatment;
- be medically ineffective in prolonging life; or
- be contrary to the patient's or surrogate's clearly documented desire not to receive artificially administered nutrition or hydration.

Updates the form that current law requires a patient or the person responsible for the patient's health care decisions to receive when an attending physician refuses to honor a patient's advance directive or a health care or treatment decision made by or on behalf of a patient.

Requires that the patient continue to be given life-sustaining treatment until the patient can be transferred to a willing provider for up to 10 days from the time the patient is given both the committee's written decision that life-sustaining treatment is not appropriate and the patient's medical record.
Requires that the patient, after the 10 days, continue to be given treatment to enhance pain management and reduce suffering, including artificially administered nutrition and hydration, unless, based on reasonable medical judgment, providing this nutrition and hydration would: hasten the patient’s death; be medically contraindicated such that the provision of the treatment seriously exacerbates life-threatening medical problems not outweighed by the benefit of the provision of the treatment; result in substantial irremediable physical pain not outweighed by the benefit of the provision of the treatment; be medically ineffective in prolonging life; or be contrary to the patient’s or surrogate’s clearly documented desires.

Requires the executive commissioner of the Health and Human Services Commission to adopt all rules necessary to implement these provisions by March 1, 2016.

Designations for Hospitals That Provide Neonatal and Maternal Care—H.B. 3433
by Representative Sheffield et al.—Senate Sponsor: Senator Kolkhorst

Recent legislation establishing hospital level of care designations for neonatal and maternal care has resulted in some unintended consequences for hospitals in rural areas of Texas. Interested parties contend that, while rural hospitals welcome efforts to enhance the care they provide, these hospitals have always faced a struggle in finding a balance between what is realistic, practical, and achievable with available resources. A number of rural hospitals report that they have experienced incredible difficulty in attempting to comply with certain rules regarding these designations, and some hospitals have even indicated that they may be forced to stop offering obstetrics services altogether. The parties argue that these consequences go against the original intent of the legislation and that additional representation on the Perinatal Advisory Council from providers in rural areas would help to clarify the situation. This bill:

Provides that the Perinatal Advisory Council consists of 19 members, rather than 17 members, appointed by the executive commissioner of the Health and Human Services Commission (HHSC).

Requires that the executive commissioner of HHSC appoint two physicians, rather than one physician, licensed to practice medicine, specializing in family practice, who provide obstetrical care in a rural community, at least one of whom must provide such care at a hospital that has 50 or fewer patient beds and that is located in a county with a population of 60,000 or less or has been designated by the Centers for Medicare and Medicaid Services (CMS) as a critical access hospital, rural referral center, or sole community hospital.

Requires that the executive commissioner of HHSC appoint two representatives, rather than one representative, from a rural hospital, at least one of whom must be an administrative representative from a hospital that has 50 or fewer patient beds and that is located in a county of 60,000 or less or has been designated by CMS as a critical access hospital, rural referral center, or sole community hospital.

Provides that members of the advisory council serve staggered three-year terms, with the terms of six of those members, rather than five or six of those members, expiring September 1 of each year.

Provides that a member may be reappointed to the advisory council.
Requires the advisory council to submit a report detailing the advisory council’s determinations and recommendations to the Department of State Health Services and the executive commissioner of HHSC not later than September 1, 2016, rather than September 1, 2015.

Requires the executive commissioner of HHSC to appoint the additional members not later than October 1, 2015.

Requires the executive commissioner of HHSC to adopt the initial rules required by Section 241.183, Health and Safety Code, not later than March 1, 2018, after consideration of the report of the Perinatal Advisory Council.

Requires the executive commissioner of HHSC to complete for each hospital in the state: the neonatal level of care designation not later than August 31, 2018, and the maternal level of care designation not later than August 31, 2020.

Provides that a hospital is not required to have: a neonatal level of care designation as a condition of reimbursement for neonatal services through the Medicaid program before September 1, 2018, and a maternal level of care designation as a condition of reimbursement for maternal services through the Medicaid program before September 1, 2020.

Texas Health Improvement Network—H.B. 3781
by Representative Crownover et al.—Senate Sponsor: Senators Watson and Zaffirini

Texas faces many health challenges that contribute to the increasing cost of health care in the state. Interested parties express concern that health improvement initiatives currently underway are seldom analyzed, noting that the legislature, without the proper analysis, often does not have the necessary data to know if it should expand these initiatives full-scale or discontinue them altogether. The parties assert that, while Texas has a significant opportunity through its academic and health institutions to address these issues, the state needs dedicated resources and a structure to improve its coordinated efforts, such as the establishment of a network of academic and health science institutions with a mission of improving the health and well-being of all Texans. This bill:

Establishes the Texas Health Improvement Network (THIN) to address urgent health care challenges and improve the health care system in the state and the nation and to develop, based on population health research, health care initiatives, policies, and best practices in order to reduce the per capita costs of health care, improve the individual experience of health care and improve the health of residents of the state.

Provides that the network consists of experts in general public health and other medical fields, mental health, nursing, pharmacy, social work, health economics, health policy and law, epidemiology, biostatistics, health informatics, health services research, engineering, and computer science.

Provides that the network is administratively attached to The University of Texas System and requires The University of Texas System to administer and coordinate the network and provide administrative support to the network as necessary to carry out the purposes of the bill.
Authorizes THIN to accept gifts and grants to fund the network from individuals, corporations, trusts, foundations, or the federal government, subject to any limitations or conditions imposed by law, and to administer the funds as appropriate.

Requires THIN to report the results of the network’s efforts, findings, and activities to the legislature, state and federal partners, and other interested entities.

Requires THIN to establish an advisory council to advise the network on the health care needs of the state and sets forth the composition and terms of members of the council.

Texas Prescription Program—S.B. 195
by Senator Schwertner—House Sponsor: Representative Crownover

The Texas Prescription Program collects prescription data on all Schedule II, III, IV, and V controlled substances dispensed by a pharmacy in Texas. Created in the early 1980s, the program was established within the Department of Public Safety of the State of Texas (DPS) to monitor and prevent the diversion of prescription drugs. Access to the database is statutorily restricted, and only certain individuals are authorized to access the information to inquire about patients, verify prescription records, and collect useful information about prescription trends, as applicable. Interested parties contend that the operation of and certain requirements relating to the program are in need of updating. This bill:

Requires a person to be registered with or exempt from registration with the federal Drug Enforcement Administration (DEA) under the federal Controlled Substances Act to manufacture, distribute, prescribe, possess, analyze, dispense, or conduct research with a controlled substance under the Texas Controlled Substances Act.

Transfers the regulation of the official prescription program for certain controlled substances from DPS to the Texas State Board of Pharmacy (TSBP).

Requires DPS, not later than September 1, 2016, to transfer to TSBP all appropriate records received by DPS under certain provisions of the Texas Controlled Substances Act regulating prescriptions for controlled substances and the official prescription program, regardless of whether the records were received before, on, or after the effective date of the bill.

Transfers from DPS to TSBP rulemaking authority relating to prescriptions for controlled substances and the official prescription program.

Includes and among the persons and organizations authorized to have access to specified information regarding prescriptions of certain controlled substances.

Includes an investigator for the Texas Optometry Board, an authorized employee of TSBP, a medical examiner conducting an investigation, and one or more states or an association of states with which TSBP has an interoperability agreement among the persons and organizations authorized to have access to certain information regarding prescriptions of certain controlled substances.
Includes a pharmacist or pharmacy technician acting at the direction of an optometrist and an employee or other agent of a practitioner acting at the direction of a practitioner among the persons and organizations authorized to have access to the information regarding prescriptions of certain controlled substances and conditions the access of certain pharmacists and health care professionals on the person having the authority to access such information under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and rules adopted under that act.

Authorizes a medical examiner conducting an investigation to access the information through a health information exchange, subject to proper security measures.

Requires TSBP to ensure that DPS has unrestricted access at all times to specified information regarding prescriptions of certain controlled substances submitted to TSBP and requires DPS access to be provided through a secure electronic portal under the exclusive control of DPS. Provides that DPS is responsible for the expenses of the initial implementation and ongoing operation of the secure electronic portal. Provides that a law enforcement or prosecutorial official engaged in specified activities regarding illicit drugs is authorized to obtain the information submitted to the board only if the official submits a request to DPS. Requires DPS, on finding that the official has shown proper need for the information, to provide access to the relevant information.

Authorizes TSBP to enter into an interoperability agreement with one or more states or an association of states authorizing the board to access prescription monitoring information maintained or collected by the other state or states or the association, including information maintained on a central database such as the National Association of Boards of Pharmacy Prescription Monitoring Program InterConnect. Authorizes TSBP, pursuant to an interoperability agreement, to authorize the prescription monitoring program of one or more states or an association of states to access information submitted to the board, including by submitting or sharing information through a central database such as the National Association of Boards of Pharmacy Prescription Monitoring Program InterConnect.

Authorizes a medical examiner conducting an investigation who is registered with the board for electronic access to certain information regarding prescriptions of controlled substances to directly access the information available from other states pursuant to an interoperability agreement.

Requires TSBP by rule to establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of establishing and maintaining the official prescription program for certain controlled substances and authorizes TSBP to assess such fees on individuals or entities authorized to prescribe or dispense controlled substances under the Texas Controlled Substances Act and to access the official prescription program.

### Tracking Career Information for Medical School Graduates—S.B. 295

*by Senator Schwertner et al.—House Sponsor: Representative Guillen*

The State of Texas must ensure that the physicians necessary to service a growing and diverse population are being retained. To protect Texas' investment in medical school graduates, as well as its overall investment in public health, it is necessary to first understand where medical school graduates choose to complete their residency, where medical residents choose to practice, and to what extent Texas doctors practice primary care after completing their residency. This bill:
Requires the Texas Higher Education Coordinating Board (THECB) to establish, no later than January 1, 2016, a tracking system to acquire and maintain data regarding the initial residency program choices made by graduates of medical schools in Texas and the initial practice choices made by persons completing medical residency programs in this state.

Requires that the tracking system use any data reasonably available to THECB, including data maintained by or accessible to medical schools or residency programs in this state, and collect relevant information for the two-year period following completion of that program.

Requires THECB to adopt rules for the implementation and administration of the tracking system.

Medical Use of Low-THC Cannabis—S.B. 339
by Senator Eltife et al.—House Sponsor: Representative Klick et al.

According to estimates of the Epilepsy Foundation of Texas, intractable epilepsy afflicts almost 150,000 people in this state. Patients with intractable epilepsy can suffer many severe seizures each week and are at a higher risk for disability, injury, and even death. This bill:

Authorizes a qualified physician to prescribe low-tetrahydrocannabinol (THC) cannabis to a patient with intractable epilepsy.

Defines "intractable epilepsy" as a seizure disorder in which the patient's seizures have been treated by two or more appropriately chosen and maximally titrated antiepileptic drugs that have failed to control the seizures.

Establishes that a physician is qualified to prescribe low-THC cannabis to such a patient if the physician is licensed under the Medical Practice Act, dedicates a significant portion of clinical practice to the evaluation and treatment of epilepsy, and is certified by the appropriate certification board in epilepsy, neurophysiology, or neurology or neurology with special qualification in child neurology if the physician is otherwise qualified for the examination for certification in epilepsy.

Authorizes a qualified physician to prescribe low-THC cannabis to alleviate a patient's seizures if the patient is a permanent Texas resident, the physician complies with the bill's registration requirements, and the physician certifies to the Department of Public Safety (DPS) that the patient is diagnosed with intractable epilepsy. Requires the physician to determine that the risk of the medical use of low-THC cannabis by the patient is reasonable in light of the potential benefit for the patient and further requires that a second qualified physician concur with the determination and record such concurrence in the patient's medical record.

Requires a qualified physician, before the physician may prescribe or renew a prescription for low-THC cannabis for a patient, to register as the prescriber for that patient in the compassionate-use registry created under the bill and maintained by DPS. Requires that the registration indicate the physician's name, the patient's name and date of birth, the dosage prescribed to the patient, the means of administration ordered for the patient, and the total amount of low-THC cannabis required to fill the patient's prescription.
Requires a qualified physician prescribing low-THC cannabis for a patient's medical use to maintain a patient treatment plan that indicates the dosage, means of administration, and planned duration of treatment for the low-THC cannabis, a plan for monitoring the patient's symptoms, and a plan for monitoring indicators of tolerance or reaction to low-THC cannabis.

Requires DPS to issue or renew a license to operate as a dispensing organization.

Defines "dispensing organization" as an organization licensed by DPS to cultivate, process, and dispense low-THC cannabis to a patient for whom low-THC cannabis is prescribed.

Requires DPS to license dispensing organizations and register a dispensing organization's directors, managers, and employees.

Requires DPS to enforce compliance of licensees and registrants and to adopt procedures for suspending, revoking, and renewing a license or registration.

Requires DPS to establish and maintain a secure online compassionate-use registry that contains specified information about: each physician who registers as a prescriber of low-THC cannabis, each patient prescribed such treatment, and the patient's prescription and a record of each amount of low-THC cannabis dispensed by a dispensing organization to a patient under a prescription.

Requires DPS to ensure that the registry: is designed to prevent more than one qualified physician from registering as the prescriber for a single patient; is accessible to law enforcement agencies and dispensing organizations for the purpose of verifying whether a patient is one for whom low-THC cannabis is prescribed and whether the patient's prescriptions have been filled; and allows a qualified physician to input safety and efficacy data derived from the treatment of patients for whom low-THC cannabis is prescribed.

Requires a dispensing organization to obtain a license issued by DPS and sets out eligibility and application requirements for such a license.

Requires a dispensing organization, before dispensing low-THC cannabis to a person for whom the low-THC cannabis is prescribed, to verify that the prescription presented is for a person listed as a patient in the compassionate-use registry, matches the entry in the registry with respect to the total amount of low-THC cannabis required to fill the prescription, and has not previously been filled by a dispensing organization as indicated by an entry in the registry.

Requires the dispensing organization, after dispensing low-THC cannabis to a patient for whom low-THC cannabis is prescribed, to record in the registry the form and quantity of low-THC cannabis dispensed and the date and time of dispensation.

Prohibits a municipality, county, or other political subdivision from enacting, adopting, or enforcing a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of low-THC cannabis as authorized by the provisions of the bill.

Exempts a licensed dispensing organization that possesses low-THC cannabis from certain provisions of the Texas Controlled Substances Act and the Texas Pharmacy Act.
Freestanding Emergency Medical Care Facilities—S.B. 425  
*by Senator Schwertner et al.—House Sponsor: Representative Greg Bonnen*

Freestanding emergency medical care facilities, also known as freestanding emergency rooms (FSERs), are medical facilities that provide emergency care but are structurally separate from a hospital. They often resemble urgent care clinics. An individual seeking urgent care is unable to easily discern between a FSER and an urgent care clinic, which can create issues when a person mistakenly uses a FSER and is then faced with an expensive medical bill similar to that of a hospital emergency room visit. FSERs are more expensive than urgent care clinics because they are allowed to charge a facility fee to cover overhead expenses, similar to fees charged by hospital emergency rooms. This bill:

Requires a freestanding emergency medical care facility to post a notice that states:
- that the facility is a freestanding emergency medical care facility;
- that the facility charges rates comparable to a hospital emergency room and may charge a facility fee;
- that a facility or a physician providing medical care at the facility may not be a participating provider in the patient's health benefit plan provider network; and
- that a physician providing medical care at the facility may bill separately from the facility for the medical care provided to a patient.

Provides that such notice must be posted prominently and conspicuously at the primary entrance to the facility, in each patient treatment room, at each location within the facility at which a person pays for health care services, and on the facility’s Internet website. Requires that the notice be printed legibly on a sign with dimensions of at least 8.5 inches by 11 inches.

Information Relating to Congenital Cytomegalovirus—S.B. 791  
*by Senator Kolkhorst et al.—House Sponsor: Representative Zerwas*

Cytomegalovirus (CMV) is a common virus that infects people of all ages. The majority of people who are infected with CMV have no signs or symptoms, and there usually are no harmful effects. However, when CMV occurs during a woman’s pregnancy, the virus can be transmitted to the unborn infant and result in congenital CMV, which can potentially damage the brain, eyes, and inner ears of the unborn infant.

It is estimated that roughly one of every five children born with congenital CMV infection will develop permanent problems, such as hearing loss or developmental disabilities, and that congenital CMV is the leading non-genetic cause of childhood hearing loss. Interested parties express concern regarding the lack of information given to the public on how to prevent CMV, contending that every year more infants die or are permanently disabled from an infection that likely could have been prevented. This bill:

Requires the Department of State Health Services (DSHS), in consultation with the Texas Medical Board (TMB), to develop and publish informational materials for women who may become pregnant, expectant parents, and parents of infants regarding the incidence of cytomegalovirus, the transmission of cytomegalovirus to pregnant women and women who may become pregnant, birth defects caused by congenital cytomegalovirus, available preventive measures to avoid the infection of women who are pregnant or may become pregnant, and resources available for families of children born with congenital cytomegalovirus.
Requires that the materials be published in English and Spanish, in an easily comprehensible form, and in a typeface large enough to be clearly legible.

Requires DSHS to review the materials periodically to determine whether changes to the contents of the materials are necessary.

Requires DSHS to publish the information on congenital cytomegalovirus on the DSHS website.

Prohibits DSHS from charging a fee for physical copies of the materials and requires DSHS to provide appropriate quantities of the materials to any person on request.

Requires DSHS to establish an outreach program to educate women who may become pregnant, expectant parents, and parents of infants about cytomegalovirus and to raise awareness of cytomegalovirus among health care providers who provide care to expectant mothers or infants.

Authorizes DSHS to solicit and accept the assistance of any relevant medical associations or community resources to promote education about congenital cytomegalovirus.

Authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules for the implementation of the bill's provisions regarding congenital cytomegalovirus.

Includes educational information provided in both English and Spanish on the incidence of cytomegalovirus, birth defects caused by congenital cytomegalovirus, and available resources for the family of an infant born with congenital cytomegalovirus among the information required to be included in the resource pamphlet provided to an adult caregiver for an infant by a hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of the infant.

Requires DSHS, not later than January 1, 2016, to develop and publish the informational materials required by the bill's provisions and to revise the resource pamphlet provided to an adult caregiver of an infant.

**Syphilis Testing of Pregnant Women—S.B. 1128**  
*by Senator Zaffirini—House Sponsor: Representative Sarah Davis*

Currently, a pregnant woman is tested for syphilis at her first prenatal visit and at delivery. However, it is recommended that in communities where rates of congenital syphilis are high, a pregnant woman should also be tested for syphilis in the third trimester of her pregnancy. Reports indicate that Texas has one of the highest rates of congenital syphilis in the country. Because the cost of treating syphilis in utero is less expensive than after birth and treating syphilis in utero can prevent physical and mental challenges to a child, interested parties contend that Texas should require syphilis testing during the third trimester. This bill:

Changes the point in time at which the second diagnostic test of a pregnant woman for syphilis is required to be performed from on admission for delivery to in the third trimester of pregnancy.
Applies to syphilis the requirements for subsequent testing for a disease for which testing should have been performed during the third trimester of pregnancy if the results of such testing are not found in the woman's medical records or if required testing is not performed before delivery.

Designating Certain Facilities as Emergency Infant Care Providers—S.B. 1279  
by Senator Campbell et al.—House Sponsor: Representative Morrison

Sometimes infants are delivered or left in places that do not provide the proper care, thus endangering the lives of infants. Current law gives a parent who is unable to care for a newborn baby a safe and legal choice to leave the baby, with no questions asked, with an employee at certain facilities, such as a hospital or an emergency medical services provider. Interested parties note that over the last few years, a number of infants have been delivered to a freestanding emergency care facility and that the number of these facilities located throughout Texas continues to grow. The parties contend that these facilities provide another option for a parent who is looking to safely deliver a baby. This bill:

Includes a licensed freestanding emergency medical care facility among the entities considered to be designated emergency infant care providers for purposes of statutory provisions governing a suit brought by a governmental entity to protect the health and safety of a child.

Applies to an exception asserted to an abandoning or endangering a child offense, regardless of when the offense was committed, but only if the trial for the offense commences on or after the bill's effective date.

Opioid Antagonists for the Treatment of Opioid Overdoses—S.B. 1462  
by Senator West—House Sponsor: Representatives Johnson and Alvarado

Drug overdose is one of the leading causes of accidental death in the United States, with opioid painkillers accounting for a large majority of these cases. Interested parties argue that prioritizing access to anti-overdose medications by making such medications more available by prescription is a critical element of reducing opioid overdose deaths. This bill:

Defines "opioid antagonist" as any drug that binds to opioid receptors and blocks or otherwise inhibits the effects of opioids acting on those receptors.

Defines "opioid-related drug overdose" and "prescriber."

Authorizes a prescriber, directly or by standing order, to prescribe an opioid antagonist to a person at risk of experiencing an opioid-related drug overdose or to a family member, friend, or other person in a position to assist such a person.

Establishes that a prescription issued for an opioid antagonist as authorized by the bill's provisions is considered issued for a legitimate medical purpose in the usual course of professional practice and that a prescriber who, acting in good faith with reasonable care, prescribes or does not prescribe an opioid antagonist is not subject to any criminal or civil liability or any professional disciplinary action for prescribing or failing to prescribe the opioid antagonist or, if the prescriber chooses to prescribe an opioid antagonist, for any outcome resulting from the eventual administration of the opioid antagonist.
Authorizes a pharmacist to dispense an opioid antagonist under a valid prescription to a person at risk of experiencing an opioid-related drug overdose or to a family member, friend, or other person in a position to assist such a person.

Establishes that a prescription filled under such circumstances is considered as filled for a legitimate medical purpose in the usual course of professional practice and that a pharmacist who, acting in good faith and with reasonable care, dispenses or does not dispense an opioid antagonist under a valid prescription is not subject to any criminal or civil liability or any professional disciplinary action for dispensing or failing to dispense the opioid antagonist or, if the pharmacist chooses to dispense an opioid antagonist, for any outcome resulting from the eventual administration of the opioid antagonist.

Authorizes a person or organization acting under a standing order issued by a prescriber to store an opioid antagonist and to distribute an opioid antagonist, provided the person or organization does not request or receive compensation for storage or distribution.

Authorizes any person to possess an opioid antagonist, regardless of whether the person holds a prescription for the opioid antagonist, and establishes that a person who, acting in good faith and with reasonable care, administers or does not administer an opioid antagonist to another person whom the person believes is suffering an opioid-related drug overdose is not subject to criminal prosecution, sanction under any professional licensing statute, or civil liability for an act or omission resulting from the administration of or failure to administer the opioid antagonist.

Authorizes emergency services personnel to administer an opioid antagonist to a person who appears to be suffering an opioid-related drug overdose, as clinically indicated.

Provides that the bill's provisions expressly prevail over another law to the extent of a conflict between the bill's provisions and that other law.
Disclosures by Providers of Continuing Care—H.B. 2697  
by Representative Galindo et al.—Senate Sponsor: Senator Menéndez

Although continuing care retirement communities offer quality care to seniors, they often require a hefty down-payment and high monthly fees. Through a continuing care at home program, seniors are offered some of the same benefits of a continuing care retirement community at a reduced rate, while being able to stay in their homes. These types of programs provide access to services such as on-campus wellness centers, dining, and special events. Additionally, participants may be eligible for home-based services such as transportation, meals, and home health care. This bill:

Expands the definition of "continuing care" to include the furnishing of personal care services, nursing services, medical services, or other health-related services under a continuing care contract in the individual's residence or otherwise enabling the individual to remain in the individual's residence.

Updates sections of Subchapter C (Continuing Care Contracts and Disclosure Statements), Health and Safety Code, to reflect this change.

Medicaid Acute Care and Long-Term Care Services—H.B. 3523  
by Representatives Raymond and Klick—Senate Sponsor: Senator Perry

Recently enacted legislation set forth a multi-year redesign of the long-term care services and supports system, including an integration of managed acute care services, for individuals with intellectual and developmental disabilities. The first stage of the system redesign began last fall with the transition of acute care services to the Texas Medicaid managed care program. Interested parties assert the need for certain clarifications and enhancements to the law to ensure that the goals of the system redesign are achieved. This bill:

Extends certain deadlines for transition of health services for individuals with intellectual and developmental disabilities to Medicaid managed care. Changes the start date for implementation of long-term services and support pilot programs from not later than September 1, 2016, to not later than September 1, 2017, and provides that the pilot programs may operate for up to 24 months instead of requiring that they operate for at least 24 months. Authorizes managed care organizations to participate in the pilot programs.

Authorizes the Department of Aging and Disability Services (DADS) to contract directly with providers participating in certain long-term care waivers to provide certain attendant and habilitation services through the STAR+PLUS program and gives the agency regulatory and oversight authority over those providers for the delivery of those services.

Delays the transition to managed care of services provided to persons enrolled in the Texas Home Living Waiver (TxHmL) from not later than September 1, 2017, to on September 1, 2018. Delays from no later than September 1, 2020, to on September 1, 2021, the transition date for the managed care of services provided to individuals with intellectual and developmental disabilities who receive care in intermediate care facilities other than a state supported living center or a Medicaid waiver program other than TxHmL.

Requires HHSC to conduct an assessment of the outcomes of the TxHmL transition and include those findings in the annual report to be submitted by September 30th of each year.
Removes the requirement for HHSC to set the minimum staff rate enhancement paid to certain nursing facilities in the STAR+PLUS program and instead requires HHSC to approve the rate enhancement methodology.

Removes the requirement that HHSC set the minimum reimbursement rate paid to a nursing facility in the STAR+PLUS program, effective September 1, 2021.

Amends the requirements and responsibilities related to the Intellectual and Developmental Disability System Redesign Advisory Committee and delays abolishment of the committee until January 1, 2026.

Requires HHSC to analyze the outcomes of providing acute care Medicaid benefits to individuals with intellectual and developmental disabilities under managed care.

**Violations Committed by Long-Term Care Facilities—S.B. 304**

*by Senator Schwertner—House Sponsor: Representative Raymond*

The most recent Sunset Advisory Commission review of the state’s long-term care system determined that the Department of Aging and Disability Services (DADS) issued only a handful of sanctions for almost 19,000 violations against nursing facilities. Many of these violations included repeat violations at the highest levels of severity, such as sexual abuse, resident-on-resident aggression, inadequate treatment of sores and infections, and medication errors. The Sunset Advisory Commission has concluded that state penalties under current law are insufficient and that the level of enforcement is negligible. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to revoke the license of a convalescent or nursing facility if DADS finds that the license holder, within a 24-month period, has committed three violations of abuse or neglect for which the license could be denied, suspended, or revoked, and that constitute an immediate threat to the health and safety of a resident.

Prohibits the executive commissioner of HHSC from revoking a license due to such a violation if the violation and the determination of immediate threat to health and safety are not included on the written list of violations left with the facility at the time of the initial exit conference for a survey, inspection, or investigation; if the violation is not included on the final statement of violations; or if the violation has been reviewed under the informal dispute resolution process established for certain long-term care facilities and a determination was made that the violation should be removed from the license holder's record or that the violation is reduced in severity so that the violation is no longer cited as an immediate threat to the health and safety of a resident.

Authorizes DADS, in the case of revocation of a license of a convalescent or nursing facility or related institution based on multiple violations committed within a 24-month period that constitute an immediate threat to health and safety related to the abuse or neglect of a resident, to request the appointment of a trustee to operate the institution, assist with obtaining a new operator for the institution, or assist with the relocation of residents to another institution.

Authorizes the executive commissioner of HHSC to stay a license revocation if the executive commissioner determines that the stay would not jeopardize the health and safety of the residents of the facility or place the residents at risk of abuse or neglect.
Requires the executive commissioner of HHSC to establish by rule criteria under which a license revocation may be stayed and to follow negotiated rulemaking procedures prescribed by the Negotiated Rulemaking Act for the adoption of rules establishing the criteria. Requires that the established criteria permit the executive commissioner to stay a license revocation of a nursing facility for which DADS has deployed a rapid response team if the facility has cooperated with the rapid response team and demonstrated improvement in quality of care, as determined by the rapid response team.

Authorizes the executive commissioner of HHSC to stay a license revocation for a veterans home if the Veterans' Land Board contracts with a different entity to operate the veterans home than the entity that operated the home during the period in which the violations occurred.

Removes a requirement that priority for monitoring visits be given to long-term care facilities with a history of patient care deficiencies and instead requires monitoring visits to be given to long-term care facilities with a history of patient care deficiencies or that are identified as medium risk through the DADS early warning system.

Authorizes a long-term care facility to request a monitoring visit.

Requires DADS to schedule a follow-up visit not later than the 45th day after the date of an initial monitoring visit.

Specifies that the long-term care facilities identified through the DADS early warning system to which a DADS rapid response team may be deployed are facilities identified as high risk. Includes a long-term care facility that is a nursing institution and that has committed three violations within a 24-month period that constitute an immediate threat to health and safety related to the abuse or neglect of a resident among the facilities to which a DADS rapid response team may be deployed, and requires a long-term care facility to cooperate with a rapid response team deployed by DADS to improve the quality of care at the facility.

Requires HHSC, as part of the informal dispute resolution process for certain long-term care facilities, to contract with an appropriate disinterested person who is a nonprofit organization to adjudicate disputes between a licensed convalescent or nursing facility or related institution and DADS concerning a statement of violations prepared by DADS in connection with a survey of the institution or facility conducted by DADS.

Provides that statutory provisions relating to impartial third parties in alternative dispute resolution procedures do not apply to the selection of an appropriate disinterested person and requires the person with whom HHSC contracts to adjudicate all such disputes.

Long-Term Care Facility Informal Dispute Resolution Council—S.B. 914
by Senators Kolkhorst and Schwertner—House Sponsor: Representative Schubert et al.

Interested parties contend that long-term care facility regulations are outdated, overly cumbersome, and inconsistently enforced. According to the parties, many facility operators feel that the current survey and informal dispute resolution process does not adequately assess whether a facility is providing proper care to its residents. Additionally, the inconsistent survey process results in a system where a violation in one part of the state may not be considered a violation in another part of the state. The parties assert that the
legislature should create a special council to conduct an overview of the state of the long-term care industry with suggestions to modernize regulations and survey processes. This bill:

Requires the executive commissioner of the Health and Human Services Commission, not later than December 1, 2015, to establish a Long-Term Care Facility Survey and Informal Dispute Resolution Council.

Sets out the composition of the council and provides for the selection of officers and the operation of the council.

Requires the council to study and make recommendations regarding a consistent survey and informal dispute resolution process for long-term care facilities; study and make recommendations regarding best practices and protocols to make survey, inspection, and informal dispute resolution processes more efficient and less burdensome on long-term care facilities; and recommend uniform standards for those processes.

Requires the council, not later than January 1, 2017, to submit a report on the council’s findings and recommendations to the executive commissioner, the governor, the lieutenant governor, the speaker of the House of Representatives, and the chairs of the appropriate legislative committees.

Exempts the council from Government Code provisions governing state agency advisory committees and expires June 1, 2017.
Authority of Psychologist to Delegate Certain Care to Intern—H.B. 1924
by Representatives Coleman and Zerwas—Senate Sponsor: Senator Eltife

In order to become a licensed psychologist, an individual must complete the following requirements: undergraduate course work, graduate course work in mental health, a dissertation, a one year pre-doctoral supervised internship, and a one-year post-doctoral supervised fellowship. The 83rd Legislature passed H.B. 808, which authorized a licensed psychologist to delegate psychological tests or services to a provisionally licensed psychologist, a newly licensed psychologist not eligible for managed care panels, a person who holds a temporary license to practice, and a person qualified to take the provisional license examination who is participating in a post-doctoral fellowship. The delegating psychologist is responsible for supervising the tests and services. In addition, the Texas State Board of Examiners of Psychologists (TSBEP) was authorized to determine through rules whether a service or test can be properly and safely delegated. Pre-doctoral supervised internships can sometimes be difficult to obtain, particularly in private practice settings. H.B. 1924 will expand the authority of a licensed psychologist to delegate psychological tests or services to pre-doctoral interns, which will serve to increase internship opportunities and access to care. This bill:

Authorizes a licensed psychologist to delegate to a person enrolled in a formal internship as provided by the Texas State Board of Examiners of Psychologists rules any psychological test or service that a reasonable and prudent psychologist could delegate within the scope of sound psychological judgment if the psychologist determines that the test or service and the person meet criteria as set forth.

Postpartum Depression Awareness Month—H.B. 2079
by Representative Senfronia Thompson—Senate Sponsor: Senators Huffman and Uresti

According to a report by CHILDREN AT RISK, between 10 and 25 percent of mothers suffer from postpartum depression, which can occur during pregnancy or up to a year after giving birth. By designating the month of May as Postpartum Depression Month, citizens will be encouraged to identify signs, symptoms, and treatment options for postpartum depression. This bill:

Designates the month of May as Postpartum Depression Awareness Month to increase awareness of postpartum depression and to encourage: the identification of signs, symptoms, and treatment options for postpartum depression; the creation and update of lists of recommended materials for perinatal mental health available through the Department of State Health Services and the Health and Human Services Commission; electronic circulation of and posting on state and local agency websites of recommended postpartum depression resources; mothers-to-be and new mothers to be screened for post-partum depression using validated survey instruments; and collaboration between governmental agencies, educational institutions, hospitals, private health care practices, health insurance providers, Medicaid providers, and mental health agencies to increase awareness of postpartum affective illness.

Requires that Postpartum Depression Awareness Month be regularly observed through appropriate programs and activities to increase awareness of postpartum depression.
National Mental Health Month—H.C.R. 84 [VETOED]
by Representative Clardy—Senate Sponsor: Senator Nichols

National Mental Health Month is observed each May to raise awareness about mental illness and related issues in the United States.

Good mental health is essential to one's overall health and well-being, but each year one in five adults, of any age, gender, race, ethnicity, religion, and economic status, face mental health issues. Studies have shown that about a third of all people experiencing mental illnesses and about half of the people living with severe mental illnesses also confront or battle against substance abuse, and about a third of all alcohol abusers and more than half of all drug abusers report experiencing a mental illness. People with mental illness can achieve recovery and wellness when appropriate mental health services and support are available; cognitive behavioral therapy is particularly effective in helping people with dual diagnoses learn to cope and to change ineffective patterns of thinking, and involving families through psychoeducation is an important component of successful mental health and substance abuse treatment; also, publication of a diagnostic and statistical manual of mental disorders has vastly increased innovation in psychiatric treatment and clarified diagnosis in a wide range of practice settings, and current treatment is now more objective, consistent, and effective than treatment in the past.

Recovery does not happen in isolation, however; it requires a sufficient number of licensed health care providers, including psychologists, marriage and family therapists, licensed professional counselors, social workers, and psychiatrists, who use their training and clinical skills to diagnose and treat patients.

The economic value of providing appropriate and timely access to mental health services can be measured beyond individual patient benefits to include cost savings to state and local hospitals and reduced expenditures by state agencies and programs, including the criminal and juvenile justice systems, children and family services, housing, and employment. This resolution:

Urges the 84th Legislature of the State of Texas to hereby direct the licensure boards governing the state's mental health providers to use the Diagnostic and Statistical Manual of Mental Disorders, the International Classification of Diseases, and any other appropriately recognized diagnostic classification systems, and the billing codes therein, for evaluation, classification, treatment, and other activities by their licensees and in connection with any claim for payment or reimbursement from a health insurance policy issuer or any other payer; and affirm the laws and rules applicable to licensed mental health care professionals who reach those in need of mental health services.

Mental Health First Aid Training—S.B. 133
by Senator Schwertner et al.—House Sponsor: Representative Coleman

Mental health first aid is an evidence-based training program that educates non-medical professionals in strategies and resources to be used in responding to an individual who is developing a mental health problem or experiencing a crisis. According to informed parties, participants in the training program learn how to assess risk, listen to and support the individual in crisis, and identify professional resources and supports. The program can be taught to anyone, although it is especially relevant for professionals who regularly interact with Texas youth, such as teachers, health care workers, police officers, and faith leaders. Recent legislation provided voluntary, no-cost mental health first aid training to educators. This bill:
Defines "school district employee" as a person employed by a school district who regularly interacts with students through the course of the person's duties, including an educator, a secretary, a school bus driver, or a cafeteria worker.

Expands the categories of school district employees who are eligible to receive mental health first aid training and related grants, to be made available to employees who, in the course of their duties, regularly interact with students.

Authorizes the Department of State Health Services (DSHS), for each state fiscal year, to give to a local mental health authority in the form of grants under Sections 1001.202 and 1001.203, Health and Safety Code, an amount that may not exceed the lesser of three percent of the total amount appropriated to DSHS for the purpose of making grants under those sections, or $70,000.

Requires DSHS, not later than December 1, rather than not later than August 1 of each year, to compile the information submitted by local mental health authorities and submit a report to the legislature containing the number of: employees and contractors of the authority who were trained as mental health first aid trainers during the preceding fiscal year; educators, school district employees other than educators, and school resource officers who completed a mental health first aid training program provided by an authority during the preceding fiscal year, rather than calendar year; and individuals who are not school district employees or school resource officers, rather than educators, who completed a mental health first aid training program provided by an authority during the preceding fiscal year, rather than calendar year.

Student Loan Repayment Assistance for Certain Mental Health Professionals—S.B. 239
by Senator Schwertner et al.—House Sponsor: Representatives Zerwas and Coleman

Texas has a shortage of medical professionals and the shortage of mental health medical professionals is even more pronounced. As of January 1, 2015, 199 of Texas’ 254 counties were designated as Mental Health Professional Shortage Areas, which is defined as a geographic area with a ratio of 30,000 people to one psychiatrist. Ensuring that individuals with mental illness and substance abuse disorders receive treatment when needed and in an appropriate clinical setting is key to preventing further breakdown of the state’s mental health system and avoiding more costly and less appropriate stays in emergency rooms and county jails. This bill:

Adds Subchapter K (Repayment of Certain Mental Health Professional Education Loans) to Chapter 61 (Texas Higher Education Coordinating Board), Education Code:

- Requires the Texas Higher Education Coordinating Board (THECB) to establish a program to provide assistance in the repayment of student loans for mental health professionals who apply and qualify for the assistance if the legislature appropriates funds for such purposes.
- Sets forth eligibility requirements.
- Provides that repayment assistance may not be received for more than five years, and certain criteria applies regarding time, amount, and type of mental health services.
- Provides that the maximum amount of repayment assistance is 10 percent in the first year and increases in five percent increments to 30 percent in the fifth year.
- Sets forth the total amount of repayment assistance that may be received by a mental health professional, as follows:
$160,000, for assistance received by a licensed physician;
$80,000, for assistance received by a psychologist, a licensed clinical social worker (LCSW) who has received a doctoral degree related to social work, or a licensed professional counselor (LPC) who has received a doctoral degree related to counseling;
$60,000 for an advanced practice registered nurse; and
$40,000, for assistance received by a licensed clinical social worker or a licensed professional counselor who has not received a doctoral degree.

Requires THECB to adopt rules necessary to administer this subchapter.

**Authority to Detain Person With Mental Illness—S.B. 359 [VETOED]**

by Senators West and Huffman—House Sponsor: Representative Workman

Certain health care facilities are not authorized to hold a person who initially voluntarily requests services and who subsequently seeks to leave the facility, even if there is a substantial concern that the person poses a danger to himself or herself or others. As a result, there is no other option in such situations but to call law enforcement or allow the person to leave. This bill:

Authorizes the governing body of a licensed hospital, the emergency department of a licensed hospital, a licensed freestanding emergency medical care facility, or certain applicable facilities providing mental health services to adopt and implement a written policy that authorizes the facility or a physician at the facility to detain a person who voluntarily requested treatment from the facility or who lacks the capacity to consent to treatment if the person expresses a desire to leave the facility or attempts to leave the facility before the examination or treatment is completed and if a physician at the facility has reason to believe and does believe that the person has a mental illness and, because of that mental illness, there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained and the physician believes that there is not sufficient time to file an application for emergency detention or for an order of protective custody.

Prohibits the policy from allowing the facility or a physician at the facility to detain a person who has been transported to the facility for emergency detention.

Requires the policy to require the facility staff or the physician who intends to detain the person under the policy to notify the person of that intention, to require a physician to document a decision by the facility or the physician to detain a person under the policy and to place a notice of detention in the person's medical record that contains the same information required in a peace officer's notification of detention, to require the period of a person's detention under the policy to be less than four hours following the time the person first expressed a desire to leave or attempted to leave the facility, and to require the facility or physician to release the person not later than the end of the four-hour period unless the facility staff or physician arranges for a peace officer to take the person into custody or unless an order of protective custody is issued.

Authorizes a peace officer to take a person who has been admitted to a facility into custody under Texas Mental Health Code provisions authorizing apprehension of a person without warrant.
Establishes that the detention of a person under a policy adopted and implemented by a facility under the bill's provisions is not considered involuntary psychiatric hospitalization for purposes of determining eligibility for a concealed handgun license.

Exempts a physician, person, or facility that detains or does not detain a person under the policy and that acts in good faith and without malice from civil or criminal liability for that action.

Exempts a facility from civil or criminal liability for its governing body's decision to adopt or not to adopt a policy under the bill's provisions.

Transportation of Person with Mental Illness—S.B. 1129
by Senator Zaffirini—House Sponsor: Representative Raymond

While law enforcement officers receive restraint training relating to persons under emergency detention, current law does not adequately prohibit certain restraining techniques that severely limit mobility, such as hog-tying, which can be dangerous and can cause health issues and even death from positional asphyxiation. While restraints can be helpful when subduing a patient during a mental health emergency, concerned parties believe that the patient should not be physically restrained unless necessary to protect their health and safety and assert that it is imperative that best practices be implemented when using restraints. S.B. 1129 seeks to ensure the safety of persons experiencing mental health issues by addressing the restraint techniques used during the transportation of such persons. This bill:

Specifies that a patient committed to a mental health facility for emergency detention or detained and taken into custody for transport to a suitable mental health facility under a protective custody order who is being transported to a designated mental health facility may be physically restrained, when necessary to protect the health and safety of the patient or of a person traveling with the patient, only during the apprehension, detention, or transportation of the patient.

Requires that the method of restraint permit the patient to sit in an upright position without undue difficulty unless the patient is being transported by ambulance.

Information Regarding Mental Health and Suicide Prevention—S.B. 1624
by Senator Rodríguez et al.—House Sponsor: Representative Márquez

According to the Texas Suicide Prevention Council, suicide is the second leading cause of death in Texas among older teens, college-age youth, and young adults ages 15 to 34. Nationwide, nearly one-third of college students report experiencing depression that impacts their ability to function at some time during the year, according to the National Institutes of Health. This bill:

Requires a general academic teaching institution to provide to each entering full-time undergraduate, graduate, or professional student, including each transfer student, information about available mental health and suicide prevention services, early warning signs that are often present in a person who may be considering suicide, and appropriate intervention for such a person.
Provides that the information required under this section may be provided through a live presentation or a format that allows for student interaction, such as an online program or video, and that it not be provided only in paper format.
Modifying Guardianships and Creating Substitutes for Guardianships—H.B. 39
by Representatives Smithee and Naishtat—Senate Sponsor: Senator Zaffirini

The number of active guardianships in Texas has increased significantly. As the Texas population ages and more people become incapacitated, there will be more need for guardianships in the future. The Texas Judicial Council has made recommendations for changes to the guardianship system to help prepare Texas for the expected increase in the need for guardianships. H.B. 39 implements these recommendations. This bill:

Requires a court in creating a guardianship to presume that the incapacitated person retains capacity to make personal decisions regarding the person's residence.

Defines "alternatives to guardianship," which include the execution of a medical power of attorney or a durable power of attorney, and "supports and services," which are formal or informal resources and assistance to an individual.

Requires an attorney ad litem to discuss with the proposed ward:
- whether alternatives to guardianship would meet the proposed ward's needs; and
- the attorney ad litem's opinion regarding whether a guardianship is necessary and, if so, the specific powers or duties of the guardian that should be limited if the proposed ward receives certain supports and services.

Requires a guardian ad litem to:
- investigate whether a guardianship is necessary for the proposed ward; and
- evaluate alternatives to guardianship and supports and services available to the proposed ward that would avoid the need for a guardianship.

Requires that an attorney for an applicant for guardianship be certified as having successfully completed a course of study in guardianship law and procedure sponsored by the State Bar of Texas.

Increases the number of hours for such certification from three to four, including one hour on alternatives to guardianship and supports and services available to proposed wards.

Requires that an application for guardianship state:
- whether alternatives to guardianship and available supports and services to avoid guardianship were considered and are feasible; and
- the limitation or termination of rights requested, including the termination of the proposed ward's right to make personal decisions regarding residence.

Requires a court, before appointing a guardian, to find by clear and convincing evidence that:
- alternatives to guardianship and supports and services available to the proposed ward have been considered and determined not to be feasible; and
- a proposed ward who lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself or to manage his or her property, lacks sufficient capacity, with supports and services, to make certain personal decisions.
Requires that the letter or certificate from a physician evaluating the proposed ward state:

- whether improvement in the proposed ward's physical condition and mental functioning is possible and, if so, the period after which the proposed ward should be reevaluated;
- the ward's capacity to administer to daily life activities with and without supports and services; and
- whether a guardianship is necessary for the proposed ward and, if so, whether specific powers or duties of the guardian should be limited if the proposed ward receives supports and services.

Provides that the letter or certificate states that improvement in the ward's physical condition or mental functioning is possible and specifies a period of less than a year for reevaluation, an order appointing a guardian must include the date by which the guardian must submit to the court an updated letter or certificate.

Requires that an order appointing a guardian specify the specific rights and powers retained by the person with and without the necessity for supports and services and whether the ward retains the right to make personal decisions regarding residence.

Provides that, except in cases of emergency, a guardian of a ward may only place the ward in a more restrictive care facility if the guardian provides notice of the proposed placement to the court, the ward, and any person who has requested notice.

Provides for a hearing if the ward or another person objects to the proposed placement.

Expands the circumstances in which a guardianship must be settled and closed to include when the ward is found by the court to have sufficient capacity with supports and services.

Authorizes a ward or any person interested in the ward's welfare to file a written application with the court for an order finding that the ward either lacks or has sufficient capacity with supports and services.

Requires a court, before limiting the powers or duties to be performed by the guardian, to find by a preponderance of the evidence that the current nature and degree of the ward's incapacity, with or without supports and services, warrants a modification of the guardianship and that some of the ward's rights need to be restored.

Requires a court order restoring a ward's capacity or modifying a ward's guardianship to state, if applicable, any necessary supports and services for the restoration of the ward's capacity or modification of the guardianship.

Adds Chapter 1357 (Supported Decision-Making Agreement Act), to the Estates Code. This Act:

- Defines various terms.
- States that the purpose of the chapter is to recognize a less restrictive substitute for guardianship for adults with disabilities who need assistance, but who are not considered incapacitated persons for purposes of establishing a guardianship.
- Provides that an adult with a disability may voluntarily enter into a supported decision-making agreement with a supporter authorizing the supporter to assist the adult in decision-making and accessing certain information.
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- Provides that the supported decision-making agreement extends unless:
  - terminated by either party or by the terms of the agreement;
  - the Department of Family and Protective Services (DFPS) finds that the adult with a disability has been abused, neglected, or exploited by the supporter; or
  - the supporter is found criminally liable for certain conduct.
- Sets forth the supporter's authority to access certain personal information.
- Sets forth the form for, and the requirements for the executing and witnessing of, a supported decision-making agreement.
- Limits the liability of a person who relies in good faith on a supported decision-making agreement.
- Requires a person who receives a copy of a supported decision-making agreement or is aware of such agreement and who believes that the adult with a disability is being abused, neglected, or exploited by the supporter, to report the alleged abuse, neglect, or exploitation to DFPS.

Study of the Dallas Men Against Abuse Program—H.B. 77
by Representative Mary González et al.—Senator Sponsor: Senator West

Domestic violence is a continuing problem that affects the state's legal and public health care systems. The United States Centers for Disease Control and Prevention estimates that intimate partner violence costs the nation billions of dollars each year, with most of the costs resulting from medical and mental health services. Recently, the annual reported total of family violence incidents in Texas reached nearly 200,000, representing a sizable increase from previous years. The majority of victims whose sex is known are female, and this gender disparity prompted the City of Dallas to implement the Dallas Men Against Abuse program. Citing a decrease in aggravated assault charges and an increase in the likelihood that victims will speak out after the program's launch, interested parties believe that this innovative program could act as a model for best practices in the struggle to end domestic violence in Texas. This bill:

Requires the Health and Human Services Commission (HHSC), in conjunction with a statewide coalition on family violence, to conduct a study of activities in the Dallas community addressing family violence, with a special focus on each aspect of the Dallas Men Against Abuse program, to determine if any or all of those activities or program aspects should be implemented at the state level or in additional local communities or school districts.

Requires HHSC and the statewide coalition on family violence, in conducting the study, to consult with the City of Dallas Domestic Violence Task Force and a researcher with expertise on family violence who is affiliated with an institution of higher education in the state.

Requires that the study: examine each aspect of the Dallas Men Against Abuse program; evaluate the effectiveness of each aspect of the program and effectiveness of other community activities that contributed to changes in community responses to family violence, based on indicators developed in consultation with family violence experts, including the statewide coalition on family violence conducting the study in conjunction with HHSC and the researcher; evaluate the effectiveness of the program in increasing male involvement in addressing family violence; incorporate background information, such as the number of calls made to domestic violence hotlines, the number of victims of prosecutions of offenses involving family violence, and the number of charges filed in family violence cases, to provide context for the issue of family
violence in the Dallas community and this state; assess the costs associated with the program and other community activities addressing family violence and sources of funding; determine the feasibility of implementing any or all of the program aspects or other community activities addressing family violence at the state level or in additional local communities or school districts; and make recommendations to the legislature regarding implementing any or all of the program aspects or other community activities addressing family violence at the state level or in additional local communities or school districts.

Requires the Department of Family and Protective Services (DFPS) and each other health and human services agency under the authority of HHSC to participate in the study and provide appropriate assistance.

Requires the Texas Education Agency to cooperate with HHSC as necessary to enable HHSC to assess the feasibility of implementing any or all of the program aspects or other community activities addressing family violence in school districts.

Requires HHSC to submit a report to the legislature regarding the results of the study and HHSC's recommendations regarding expanded implementation of any or all program aspects or other community activities addressing family violence not later than December 1, 2016.

**Sealing Court Documents Filed Electronically in Child Protection Suit—H.B. 331**

*by Representative Wu et al. — Senate Sponsor: Senator Kolkhorst*

Child Protective Services (CPS) cases often contain sensitive and private information about children that is not intended to become public. Under current law, the sealing of court records in CPS cases only applies to records that are filed through physical paper copies. Permitting electronically filed documents to be sealed in the same manner as other documents would increase the security and privacy of such sensitive data. This bill:

Requires a court, when determining whether to seal documents, to consider documents filed electronically in the same manner as any other document filed with the court.

**Duration of Certain Protective Orders in Family Violence Cases—H.B. 388**

*by Representative Raymond — Senate Sponsor: Senator Zaffirini*

Current law only extends protective orders in cases of family violence if the aggressor is still imprisoned at the time the order is set to expire. An extension of protective orders would provide additional safeguards for family violence victims. This bill:

Provides that if a person who is the subject of a protective order is confined or imprisoned and the protective order would expire not later than the first anniversary of the date the person is released from confinement or imprisonment, the period for which the order is effective is extended to:

- the first anniversary of the date the person is released from confinement or imprisonment, if the person was sentenced to confinement or imprisonment for more than five years; or
- the second anniversary of the date the person is released from confinement or imprisonment, if the person was sentenced to confinement or imprisonment for five years or less.
Designation of Direct Support Professionals Week—H.B. 504
by Representative Guillen—Senate Sponsor: Senator Zaffirini

Direct support professionals are primary providers of publicly funded long-term support services for persons with physical and intellectual disabilities. The essential care provided by direct support professionals enables persons with disabilities to live meaningful and productive lives while remaining connected to their families and communities. The demand for caregivers employed in homes and community-based settings is continuing to grow. Direct support professionals enhance the lives of thousands of Texans while performing a vital service to persons with disabilities, whose day-to-day care may pose a challenge. This bill:

Provides that the second full week in September is Direct Support Professionals Week to honor the work of direct support professionals as an integral part of the long-term support system for individuals with physical and mental disabilities.

Study of Homeless Youth—H.B. 679
by Representative Sylvester Turner et al.—Senate Sponsor: Senator Zaffirini

Homeless youth are vulnerable to human trafficking and other negative outcomes associated with not having a safe and stable environment in which to live. Because not all homeless youth can be found in shelters, where they are more easily detected by organizations collecting data relating to the population, there is a scarcity of reliable data on how many youth face these challenges. Although anecdotal evidence suggests that the number of homeless youth is much higher than officially reported, interested parties contend that determining the scope of the problem would lead to a more accurate picture of the situation and possibly more viable solutions for this vulnerable population. H.B. 679 seeks to better understand the extent of the problem and the available solutions by providing for a study on homeless youth in Texas. This bill:

Requires the Texas Department of Housing and Community Affairs (TDHCA), in conjunction with other members of the Texas Interagency Council for the Homeless, to conduct a study on homeless youth.

Requires TDHCA, in conducting the study, to: collect data on the number of homeless youth in this state; examine the needs of homeless youth and the degree to which current programs are meeting those needs; identify any sources of funding that might be available to provide services to homeless youth; and develop a strategic plan establishing steps to be taken and timelines for reducing youth homelessness in this state.

Requires TDHCA to submit a report on the study to the legislature not later than December 1, 2016, and requires that the report include a summary of the information resulting from the study and recommendations for changes in law necessary to provide services to or otherwise assist homeless youth.

Substitute Care Providers for Children in DFPS Conservatorship—H.B. 781
by Representatves Burkett and Naishtat—Senate Sponsor: Senators Perry and Zaffirini

Interested parties maintain that there is a need for increased oversight of substitute care providers by the Texas Department of Family and Protective Services (DFPS) and for a greater awareness regarding the
evaluation and training process required to be undertaken by these caregivers. The parties contend that the implementation of best practice standards and additional training requirements for potential caregivers would promote transparency and provide future caregivers with the knowledge needed to be a positive influence in the lives of the children they serve. H.B. 781 seeks to ensure that the welfare of children receiving substitute care services is properly monitored by individuals and organizations upholding a high standard of practice. This bill:

Requires that a contract for residential child-care services provided by a general residential operation or by a child-placing agency include provisions that enable DFPS to monitor the effectiveness of the services; specify performance outcomes; authorize DFPS to terminate the contract or impose sanctions for a violation of a contract provision that specifies performance criteria; authorize DFPS, an agent of DFPS, and the state auditor to inspect all contract-related books, records, and files maintained by a contractor; and are necessary, as determined by DFPS, to ensure accountability for the delivery of services and for the expenditure of public funds.

Requires that a DFPS contract with a private agency for the provision of substitute care or case management services for a child include provisions that require the agency to provide access to the agency’s information and records relating to the child to the child’s attorney ad litem and guardian ad litem.

Requires DFPS, in contracting with licensed child-placing agencies for residential child-care services, to determine and evaluate, using best practice standards, the home screening, assessment, and pre-service training requirements used by substitute care providers before the verification and approval of caregivers, including the risk assessment evaluations used and the curriculum and models used and topics covered in caregiver training.

Requires DFPS to publish the information collected by DFPS regarding the curriculum and training models used and topics covered during caregiver training by substitute care providers on the DFPS website.

Requires DFPS to include a provision in each contract with a child-placing agency with whom children in the managing conservatorship of DFPS are placed that requires the child-placing agency to provide at least 35 hours of competency-based, pre-service training to a potential caregiver before the child-placing agency verifies or approves the caregiver as a foster or adoptive home.

Requires DFPS to adopt policies to ensure that each potential caregiver receives at least 35 hours of competency-based, pre-service training before DFPS verifies or approves the caregiver as a foster or adoptive home.

Repeals a provision of the Human Resources Code requiring that a DFPS contract for the purchase of substitute care services be procured using DFPS procurement procedures or procurement procedures approved by the executive commissioner of the Health and Human Services Commission (HHSC) that promote open and fair competition.

Provides that all individuals currently going through the process to become a foster parent are excluded from the provisions of this bill.
Provides that kinship caregivers are excluded from the provisions of this bill and can still complete an abbreviated number hours of training.

**Native American Heritage in Suits Affecting the Parent-Child Relationship—H.B. 825**
by Representatives Giddings and Molly White—Senate Sponsor: Senator Uresti

Recent data suggests that many judges in Texas who deal with child protective services cases are unaware of the federal Indian Child Welfare Act of 1978 (ICWA), which provides for the placement of children of Native American heritage in homes that reflect the unique values of that culture. Concerned parties assert that by identifying Native American children, the state could help such children remain connected with their families and heritage. This bill:

Requires the court in certain proceedings affecting the parent-child relationship to ask all parties present whether the child or the child's family has a Native American heritage and identify any Native American tribe with which the child may be associated.

**Modification of a Child Support Order—H.B. 826**
by Representative Giddings—Senate Sponsor: Senator Ellis

According to the Office of the Attorney General, Child Support Division, many parents living under a court-issued child support order do not understand that they have the right to request a child support modification, either from the court or through the division. Many noncustodial parents who are delinquent in their child support payments have claimed that they did not know they could request a modification if their financial or life circumstances change. As a result, instead of requesting a modification of their current court-ordered child support, they simply stop paying. This is detrimental to all parties involved in a child support order. This bill:

Requires that an order in a suit that orders child support must contain a certain prominently displayed statement providing notification that the court may modify the order in certain circumstances.

**Silver Alert for Missing Senior Citizen—H.B. 834**
by Representative Hernandez et al.—Senate Sponsor: Senator Creighton

S.B. 1315, enacted by the 80th Legislature, Regular Session, 2007, directed the Department of Public Safety of the State of Texas (DPS) to develop a Silver Alert Program for missing senior citizens. Senior citizens with Alzheimer's disease or other mentally debilitating diseases may wander away from their residences, sometimes with tragic results. An alert system similar to the AMBER Alert Program, the Silver Alert Program authorizes local law enforcement to use a broad array of statewide media and communication tools to help with the location of a missing senior citizen. This is a critical resource, especially in time-sensitive missing persons searches.

Texas' Silver Alert system, unlike similar systems in over 30 states, requires that local law enforcement determine whether a person is domiciled in Texas before issuance of a statewide Silver Alert. However, a
missing senior's domicile status may not be easily ascertainable, particularly if they are cared for by a third party or are receiving medical treatment in Texas, but may actually be a resident of a neighboring state. Even when the missing person is a Texas resident, it often takes time for local police to determine his or her permanent residence. This bill:

Strikes the requirement that the local law enforcement agency verify that the missing senior citizen's domicile is in Texas.

**Inclusion of Information on DFPS Internet Website—H.B. 1180**

*by Representative Burkett et al.—Senate Sponsor: Senators Kolkhorst and Zaffirini*

Texas parents can utilize the Texas Department of Family and Protective Services (DFPS) searchable database online to locate child care providers. The available data allows a person to locate a provider that can best meet their needs and ensure settings are safe. However, the existing database is not currently statutorily mandated.

Concerned parties note that the available database does not allow parents to gain a comprehensive picture of provider performance, quality, and possible risk-factors. The parties contend that additional improvements are needed to ensure that Texas parents have the information needed to make well-informed and confident decisions about their child's daily care and ensure that individuals charged with caring for children are safe.

Currently, an individual who was previously barred by the State of Texas from caring for children may reapply to become a child care provider after five years of revocation or suspension of license. However, an involuntary revocation or suspension of childcare licensure is not required to appear on an individual's background check. Also, providers whose license or registration is involuntarily revoked or suspended remain on the DFPS website for only two years, when it is removed permanently. Concerned parties contend that parents should have detailed information about a child care provider's performance and compliance in order to make well-informed, appropriate, and safe decisions about their child's care. This bill:

Statutorily requires DFPS to maintain the already operational searchable public database on the DFPS website that allows individuals to obtain information on residential child-care facilities, including family homes.

Requires DFPS to include in the database the name, address, and any identification number of each family home registered or listed that has had its registration or listing involuntarily suspended or revoked and the year in which the suspension or revocation took effect.

Authorizes the executive commissioner of the Health and Human Services Commission to adopt rules as necessary to implement the bill.
Reporting Requirements for Children in DFPS Conservatorship—H.B. 1217

by Representative Senfronia Thompson—Senate Sponsor: Senator Uresti et al.

According to the National Center for Missing and Exploited Children, it is estimated that 67 percent of likely child trafficking victims reported missing were either in foster care or a group home setting prior to running away. Children removed from their families due to abuse or neglect, often young girls, run away from the state’s official care and may become victims of child trafficking and sexual exploitation.

Currently, the Department of Family and Protective Services (DFPS) is required to conduct an interview with a missing child, once found, to determine the reason the child was missing and where the child stayed during that time. DFPS is then required to report to an appropriate law enforcement agency. However, DFPS does not currently collect information related to potential victims of human trafficking. H.B. 1217 requires DFPS to determine whether the child, while missing, was a possible victim of trafficking. Additionally, H.B. 1217 requires DFPS to collect certain information on each child and prepare a report to be made available on the DFPS website. This bill:

Requires the DFPS, after a missing child returns to the child’s substitute care provider, to interview the child to determine the reasons why the child was missing, where the child stayed during the time the child was missing, and whether, while missing, the child was a victim of trafficking.

Requires DFPS to collect information on each child in DFPS managing conservatorship who is missing from the child’s substitute care provider and on each child who, while in DFPS managing conservatorship, is a victim of trafficking.

Requires that the collected information include information on: whether the managing conservatorship of DFPS is temporary or permanent; the type of substitute care in which the child is placed; and the child’s sex, age, race, and ethnicity and the DFPS region in which the child resides.

Requires DFPS to prepare an annual report on the information collected related to children missing from DFPS managing conservatorship and make the report available on the DFPS Internet website and prohibits the report from including any individually identifiable information regarding a child who is the subject of information in the report.

Requires DFPS to prepare and disseminate a report of statistics by county relating to key performance measures and data elements for child protection.

Requires DFPS to provide the report regarding statistics by county to the legislature and to publish the report and make the report available electronically to the public not later than February 1 of each year.

Requires the report regarding statistics by county to include, with respect to the preceding year: information on the number and disposition of reports of child abuse and neglect received by DFPS; information on the number of clients for whom DFPS took protective action, including investigations, alternative responses, and court-ordered removals; information on the number of clients for whom DFPS provided services in each program administered by Child Protective Services (CPS), including investigations, alternative responses, family-based safety services, conservatorship, post-adoption services, and transitional living services; the number of children in the state who died as a result of child abuse or neglect; the number of
children in the state who died as a result of child abuse or neglect for whom DFPS was the children's managing conservator at the time of death; information on the timeliness of DFPS's initial contact in an investigation or alternative response; information on the response time by DFPS in commencing services to families and children for whom an allegation of child abuse or neglect has been made; information regarding child protection staffing and caseloads by program area; information on the permanency goals in place and achieved for children in the managing conservatorship of DFPS, including information on the timeliness of achieving the goals, the stability of the children's placement in foster care, and the proximity of placements to the children's home counties; and the number of children who suffer from a severe emotional disturbance and for whom DFPS is appointed managing conservator, including statistics on appointments as joint managing conservator, due to an individual voluntarily relinquishing custody of a child solely to obtain mental health services for the child.

Requires DFPS, not later than September 1 of each year, to seek public input regarding the usefulness of, and any proposed modifications to, existing reporting requirements and proposed additional reporting requirements, to evaluate the public input provided, and seek to facilitate reporting to the maximum extent feasible within existing resources and in a manner that is most likely to assist public understanding of DFPS functions.

Requires DFPS to annually publish information on the number of children who died during the preceding year whom the department determined had been abused or neglected but whose death was not the result of the abuse or neglect.

Offense of Injury to a Child, Elderly Individual, or Disabled Individual—H.B. 1286
by Representative Simmons et al.—Senate Sponsor: Senator Lucio

Under current law, for the purposes of the offense of injury to a child, elderly individual, or disabled individual, a "disabled individual" is currently defined as a person older than 14 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect himself from harm or to provide food, shelter, or medical care for himself. Interested parties contend that this definition should be expanded to cover other disabled individuals who may not meet that description. This bill:

Expands the definition of "disabled individual" to include a person with one or more of the following:
- autism spectrum disorder;
- developmental disability;
- intellectual disability;
- severe emotional disturbance; or
- traumatic brain injury.

Strikes the requirement that certain victims must be older than 14 years of age.

Provides that it is an affirmative defense to prosecution for the offense of injury to a disabled individual under Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual), Penal Code, that the defendant could not reasonably have known that the individual was a disabled individual.
Notification Requirements Regarding Children in DFPS Conservatorship—H.B. 1309
by Representative Sylvester Turner—Senate Sponsor: Senator Schwertner

Currently, the Department of Family and Protective Services (DFPS) notifies specific persons and offices of a DFPS fatality but does not always notify the legislators in whose districts the fatality occurred. As a result, legislators often hear about these fatalities from sources such as constituents, advocacy groups, or media outlets. This bill:

Requires DFPS, not later than the fifth day after the date DFPS is notified of the death of a child for whom DFPS has been appointed managing conservator, to provide certain information about the child to the state senators and state representatives who represent the county of the child's death at the time of the child's death and the county in which a suit affecting the parent-child relationship involving the child is pending.

Requires DFPS to provide to the legislator: the age and sex of the child; the date of death; whether the state was the managing conservator of the child at the time of the child's death; and whether the child resided with the child's parent, managing conservator, guardian, or other person entitled to possession of the child at the time of the child's death.

Requires DFPS to make a reasonable effort to notify the parent of a child in the managing conservatorship of DFPS of: a significant change in medical condition of the child; the enrollment or participation of the child in a drug research program; and an initial prescription of a psychotropic medication.

Requires DFPS, not later than 48 hours before DFPS changes the residential child-care facility for a child in the managing conservatorship of DFPS, to provide notice of the change to: the child's parent; an attorney ad litem appointed for the child; a guardian ad litem appointed for the child; a volunteer advocate appointed for the child; and the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee.

Requires DFPS, as soon as possible but not later than the 10th day after the date DFPS becomes aware of a significant event affecting a child in the conservatorship of DFPS, to provide notice of the significant event to: the child's parent; an attorney ad litem appointed for the child; a guardian ad litem appointed for the child; a volunteer advocate appointed for the child; the licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee; a foster parent, prospective adoptive parent, relative of the child providing care to the child, or director of the group home or general residential operation where the child is residing; and any other person determined by a court to have an interest in the child's welfare.

Requires DFPS, if a hearing for the child is conducted during the 10-day notice period for a significant event affecting a child in the conservatorship of DFPS, to provide notice of the significant event at the hearing.

Provides that DFPS is not required to provide notice of a significant event affecting a child in the conservatorship of DFPS to the parent of the child if: DFPS cannot locate the parent; a court has restricted the parent's access to the information; the child is in the permanent managing conservatorship of DFPS and the parent has not participated in the child's case for at least six months despite DFPS's efforts to
involve the parent; the parent's rights have been terminated; or DFPS has documented in the child's case file that it is not in the best interest of the child to involve the parent in case planning.

Provides that DFPS is not required to provide notice of a significant event to the child-placing agency responsible for the placement of a child in the managing conservatorship of DFPS, a foster parent, a prospective adoptive parent, a relative of the child providing care to the child, or the director of the group home or general residential operation where the child resides if that agency or individual is required under a contract or other agreement to provide notice of the significant event to DFPS.

Requires a person entitled to notice of a significant event affecting a child in the conservatorship of DFPS to provide DFPS with current contact information, including the person's email address and the telephone number at which the person may most easily be reached and to update a person's contact information as soon as possible after a change to the information.

Requires that DFPS is not required to provide notice of a significant event affecting a child in the conservatorship of DFPS to a person who fails to provide contact information to DFPS and that DFPS may rely on the most recently provided contact information in providing notice.

Requires a residential child-care facility contracting with DFPS for 24-hour care to notify DFPS, in the time provided by the facility's contract, of a significant event for a child who is in the conservatorship of DFPS and residing in the facility.

Requires DFPS to provide notice of a significant event affecting a child in the conservatorship of DFPS in a manner that would provide actual notice to a person entitled to the notice, including the use of electronic notice whenever possible.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules necessary to implement the notification of significant event provisions.

Defines "significant event" as: a placement change, including failure by DFPS to locate an appropriate placement for at least one night; a significant change in medical condition; an initial prescription of a psychotropic medication or a change in dosage of a psychotropic medication; a major change in school performance or a serious disciplinary event at school; or any event determined to be significant under DFPS rule.

Maintenance of Guardianship Orders of Residents of Certain Institutions—H.B. 1337

by Representative Naishat—Senate Sponsor: Senator Zaffirini

Recently, in Austin, an allegation of sexual abuse was made at an assisted living facility, and during the investigation of the allegation, the facility staff reported that they were not aware that a guardianship order for the alleged victim existed. In fact, a guardianship existed, and the guardian should have been notified. An internal investigation by the Department of Aging and Disability Services (DADS) evaluating the agency's handling of this case concluded that the medical file for the alleged victim was never reviewed by the assigned DADS investigator, which resulted in a failure to notify the guardian of the allegations of sexual abuse.
Currently, assisted living facilities and nursing homes are not required to keep guardianship orders in a resident's medical file, and, when an investigator for DADS investigates a report of abuse, neglect, or exploitation, there is no requirement to check the resident's medical file for a guardianship order during the investigation. This bill:

Requires a nursing home or assisted living facility to make a reasonable effort to request a copy of any court order appointing a guardian of a resident or a resident's estate from the resident's nearest relative or the person responsible for the resident's support.

Requires a nursing home or assisted living facility that receives a copy of a court order appointing a guardian of a resident or a resident's estate to maintain a copy of the court order in the resident's medical records.

Requires the investigator for DADS, in investigating the report of abuse, neglect, exploitation, or other complaint for a resident of a nursing home or assisted living facility, to inspect any court order appointing a guardian of the resident who was the subject of the alleged abuse, neglect, or exploitation that is maintained in the resident's medical records.

Provides that an institution is not required to comply with the provisions of the bill before January 1, 2016.

Guardianships and Other Matters Related to Incapacitated Persons—H.B. 1438
by Representative Senfronia Thompson—Senate Sponsor: Senator Zaffirini

As part of its ongoing review of Texas probate, guardianship, and trust law, the Real Estate, Probate, and Trust Law section of the State Bar of Texas has proposed several updates to the law regarding guardianships. Interested parties have also identified certain other probate issues requiring legislative attention that relate to incapacitated persons. The parties also note that certain changes are needed regarding the recusal or disqualification of a statutory probate judge or other judge authorized to hear probate, guardianship, or mental health matters and to the subsequent assignment of another judge. This bill:

Requires that, in the transfer of a guardianship, any existing bond of the guardian remain in effect until a new bond has been given or a rider has been filed.

Requires the court to which the guardianship was transferred to enter an order requiring the guardian to give a new bond or file a rider to an existing bond.

Requires that notice be given to a ward or proposed ward if a request is made to a financial institution for a customer record in connection with certain investigations under the Estates Code.

Sets forth the procedure for an interested person seeking to intervene in a guardianship proceeding.

Clarifies who are a proposed ward's relatives within the third degree by consanguinity.
Authorizes a court, before letters of guardianship are issued and on the request of a party, to require the deposit of assets of the ward or proposed ward in a financial institution for safekeeping.

Provides that the amount of the bond required to be given by the guardian is reduced in proportion to the amount of the assets deposited.

Authorizes a person believed to be incapacitated to petition the court to set aside the appointment of a guardian ad litem or court investigator in a court-initiated procedure to appoint a guardian.

Provides that any confidential information provided by the Department of Family and Protective Services remains confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code.

Authorizes the compensation of certain guardian ad litems from available funds of the assets of any management trust created for the proposed ward's benefit.

Strikes a provision barring a court from using certain information in determining whether to appoint a ward's or proposed ward's family member to serve as a guardian.

Provides that in a guardianship proceeding, the court costs of the proceeding are to be paid:

- out of the guardianship estate;
- out of the management trust, if a management trust has been created and the court determines it is in the ward's best interest;
- by the party to the proceeding who incurred the costs, if there is no guardianship estate or management trust or the assets of such estate or trust are insufficient to pay the costs; or
- out of the county treasury if there is no estate or trust or the assets of the estate or trust are insufficient to pay the costs, and the party to the proceeding who incurred the costs filed an affidavit of inability to pay the costs.

Provides that in a guardianship proceeding, the cost of any guardians ad litem, attorneys ad litem, court visitors, mental health professionals, and interpreters must be set in an amount the court considers equitable and just.

Sets forth persons who are not required to pay court costs of a guardianship proceeding, such as an attorney ad litem.

Provides that a person or entity who files an affidavit of inability to pay the costs is unable to afford the costs if the affidavit sets forth certain information, such as that the person is receiving certain assistance or other benefits.

Requires such person or entity, if the court finds that the person or entity is able to afford the costs, to pay the court costs.

Provides that, if guardianship of the estate or management trust is created, costs or reimbursements may be paid from the assets of the estate or trust.
Expands provisions regarding when the term of a temporary guardian expires to include the nine-month anniversary of the date the temporary guardian qualifies, unless the term is extended by court order.

Provides that a guardian appointed by a foreign court to represent an incapacitated person who is residing in this state may file an application to have the guardianship transferred in a court in the county in which the ward resides or in which it is intended that the ward will reside.

Authorizes a court, in certain circumstances, to appoint an attorney ad litem or guardian ad litem to act on the minor's behalf for the purpose of selling the minor's interest in certain property.

Expands provisions regarding the authority of certain guardians to sell an interest in property in a ward's estate to include a guardian of the person or estate of a ward appointed by a foreign court.

Clarifies procedural provisions regarding the recusal of a statutory probate judge, including the assignment of a regional presiding judge, a statutory probate judge, or a former or retired judge of a statutory probate court to hear the case.

Provided that the Texas Rules of Civil Procedure apply to the recusal and disqualification of a statutory probate court judge, except as otherwise provided.

Sets forth the powers and duties of a presiding judge regarding the recusal or disqualification of a statutory probate court judge.

**Evaluations in Suits Affecting the Parent-Child Relationship—H.B. 1449**

by Representative Senfronia Thompson—Senate Sponsor: Senator Rodríguez

Typically, a court will order a "social study" to assist the fact finder with information on a child, including making recommendations regarding the adoption, custody, and possession of and access to the child. These are also known as "child custody evaluations." Courts make orders for such studies not only in cases involving Child Protective Services, but also in private child custody litigation. Child custody evaluators who perform these studies are given an extreme amount of authority to make recommendations that affect Texas families. However, evaluators need only a bachelor's degree and a license in the human services field. Further, there are no uniform standards for the reports and few conflict-of-interest rules. This bill:

Replaces the term "social study" with "child custody evaluation" (CCE).

Provides that a CCE is an evaluative process ordered by a court in a contested case regarding the conservatorship of a child.

Prohibits the Department of Family and Protective Services (DFPS) from conducting a CCE.

Provides that certain mental examinations do not satisfy the requirements for a CCE.
Prohibits a court from appointing a child custody evaluator (evaluator) in a suit involving a nonparent seeking conservatorship of a child unless the court makes a specific finding that good cause has been shown for such appointment.

Sets forth what an order for a child custody evaluation must include.

Sets forth the minimum requirements for an evaluator, including:

- requiring at least a master's, rather than bachelor's degree, in a human services field of study; and
- expanding the list of eligible professionals to include a license to practice medicine in this state and a board certification in psychiatry.

Provides that certain individuals with doctoral degrees are qualified to conduct a CCE.

Requires an evaluator, if requested, to demonstrate appropriate knowledge and competence in CCE services consistent with professional models, standards, and guidelines.

Authorizes a court in a county with a population of less than 500,000, if a court cannot find an individual who meets the evaluator requirements, to appoint an individual the court determines to be otherwise qualified to conduct the evaluation.

Requires an evaluator to disclosure certain information that a reasonable, prudent person would believe would affect the ability of the person to act impartially in conducting a CCE.

Prohibits a court from appointing a person as a evaluator if the person makes certain disclosures regarding conflicts of interest or possible bias, and requires such a person resign as an evaluator, unless the court finds that there is no conflict of interest or other specified issues.

Prohibits an individual from being appointed as an evaluator in a suit if the individual has worked in a certain professional capacity with a party, the child, or another who is involved in the suit.

Sets forth what an evaluator must include or may state in a child custody report.

Prohibits an evaluator from offering an opinion regarding conservatorship of a child, unless certain basic elements of a CCE have been completed.

Requires an evaluator to identify any basic element or any additional element of a CCE that was not completed, explain the reasons the element was not completed, and provide an explanation of the likely effect of the missing element.

 Strikes a provision limiting an interview of the child who is the subject of the suit as part of a CCE to children at least four years of age.

Expands certain basic elements of a CCE.

Authorizes an evaluator to conduct psychometric testing as part of a CCE in certain circumstances.
Authorizes an evaluator who considers psychometric testing necessary, but lacks specialized training or expertise, to designate a licensed psychologist to conduct the testing.

Requires an evaluator who identifies the presence of a potentially undiagnosed serious mental illness experienced by an individual who is a subject of the CCE, if the evaluator is not qualified to assess a serious mental illness, to make one or more appropriate referrals for a mental examination of the individual.

Sets forth the duties of an evaluator regarding communications and recordkeeping.

Sets forth the provision of a CCE to a jury or other parties.

Requires the court to award the evaluator a reasonable fee for the preparation of the CCE.

Adds Subchapter E (Adoption Evaluation) to Chapter 107, Family Code:
- Sets forth the applicability of this subchapter.
- Requires a court to order the performance of an adoption evaluation to evaluate each party who requests termination of the parent-child relationship or an adoption in a suit for:
  - termination of the parent-child relationship in which a person other than a parent may be appointed managing conservator of a child; or
  - an adoption.
- Requires that the adoption evaluation include an evaluation of the circumstances and the condition of the home and social environment of any person requesting to adopt a child who is at issue in the suit.
- Sets forth the minimum requirements of an adoption evaluator.
- Authorizes a court in a county with a population of less than 500,000, if a court cannot find an individual who meets the requirements, to appoint a person the court determines to be otherwise qualified to conduct the evaluation.
- Requires an adoption evaluator to disclose certain conflicts of interest or possible bias.
- Prohibits a court from appointing a person as an adoption evaluator if the person makes such disclosure, and requires such a person to resign, unless the court finds that there is no conflict of interest or other specified issues.
- Prohibits an individual from being appointed as an adoption evaluator if the individual has worked in a certain professional capacity with a party, the child, or another who is involved in the suit.
- Requires an adoption evaluator to report any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child’s parent or managing conservator.
- Requires that an adoption evaluator's actions in conducting an adoption evaluation be in conformance with the applicable professional standard.
- Requires an adoption evaluator to:
  - follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations;
  - disclose to each attorney of record certain communications;
  - verify each statement of fact pertinent to an adoption evaluation; and
  - state the basis for the adoption evaluator's conclusions or recommendations.
- Sets forth what must be included in the pre-placement and post-placement portions of an adoption
evaluation report.

- Provides that disclosure to the jury of the contents of an adoption evaluation report is subject to the rules of evidence.
- Requires a court that orders an adoption evaluation to be conducted to award the adoption evaluator a reasonable fee to be imposed in the form of a money judgment and paid directly to the evaluator.
- Sets forth the adoption evaluator's right to access certain records.

Adds Subchapter F (Evaluations in Contested Adoptions) to Chapter 107, Family Code:

- Sets forth the applicability of this subchapter.
- Requires a court in a suit in which the adoption of a child is being contested to determine the nature of the questions posed before appointing an evaluator to conduct either a CCE or an adoption evaluation.
- Requires a court that is attempting to determine whether termination of parental rights is in the best interest of a child to order the evaluation as a CCE and include termination as one of the specific issues to be addressed in the evaluation.
- Authorizes a court by written order to modify the requirements of the CCE to take into account the circumstances of the family to be assessed.
- Authorizes the court to appoint the evaluator to concurrently address the requirements for an adoption evaluation under Subchapter E if the evaluator recommends that termination of parental rights is in the best interest of the child who is the subject of the suit.
- Provides that the court may order the evaluation as an adoption evaluation under Subchapter E if the court is attempting to determine whether the parties seeking adoption would be suitable to adopt the child if the termination of parental rights is granted, but is not attempting to determine whether such termination of parental rights is in the child's best interest.
- Prohibits a person from offering an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child at issue in a suit unless the person has conducted a CCE relating to the child.
- Authorizes a mental health professional in a contested suit to provide other relevant information and opinions relating to any party that the mental health professional has personally evaluated.
- Provides that these provisions do not apply to a suit in which the DFPS is a party.

Requires that the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas Medical Board, not later than March 1, 2016, adopt certain rules necessary to comply with the requirements of this Act.

Requires the executive commissioner of the Health and Human Services Commission to adopt certain rules, including rules necessary to implement this Act.
Temporary Orders Seeking Modification of the Conservatorship of a Child—H.B. 1500
by Representative Sheets—Senate Sponsor: Senator Huffman

Under current law, a person who files to modify conservatorship of a child and requests a temporary order that would change the primary conservatorship or residence of a child is entitled to a hearing based solely on the person's statement that the order is necessary because the child's present circumstances would significantly impair the child's physical health or emotional development. Although many courts by local rule require an affidavit of supporting facts attached to the pleading before scheduling a hearing, not all courts do, which has resulted in inequities and conflicting decisions across the state. This bill:

Requires a person filing a motion for a temporary order seeking modification of conservatorship of a child to attach an affidavit based on the person's personal knowledge, or the person's belief based on representations made to the person by a person with personal knowledge, that contains facts supporting the allegation that the child's present circumstances significantly impair the child's physical health or emotional development.

Provides that the court may only schedule a hearing on the motion if the court determines that the affidavit contains facts adequate to support the allegation stated in the affidavit.

Property Recovered on Behalf of a Minor or Incapacitated Person—H.B. 1560
by Representative Hernandez—Senate Sponsor: Senator Ellis

Under current law, money recovered by the plaintiff in a suit involving a minor or certain incapacitated plaintiffs may be invested in certain funds, including the Texas tomorrow fund (TTF). However, TTF has been closed to future enrollment, limiting the options allowing for investing funds for the purpose of education.

 Strikes references to TTF.

Provides that money recovered on behalf of a minor or incapacitated person who has no legal guardian and is represented by a next friend or an appointed guardian ad litem may be invested in a higher education savings plan to a prepaid tuition program.

Governor's Committee on People With Disabilities—H.B. 1678
by Representative Raymond et al.—Senate Sponsor: Senator Schwertner

In 1991, the 72nd Legislature established the Governor's Committee on People with Disabilities in statute and as a trusteed program within the Governor's Office to support opportunities for persons with disabilities to enjoy full and equal access to lives of independence, productivity, and self-determination. The committee aims to further opportunities and full participation of persons with disabilities by raising awareness and serving as a central source of information on issues that impact the lives of persons with disabilities.
HEALTH AND HUMAN SERVICES—PROTECTIVE AND REGULATORY SERVICES

The Governor's Committee on People with Disabilities is subject to the Texas Sunset Act and will be abolished on September 1, 2015, unless continued by the legislature. This bill:

Provides that the Governor's Committee on People with Disabilities is abolished on September 1, 2027, rather than September 1, 2015.

Requires the Governor's Committee on People with Disabilities to submit to the governor and to the legislature a report that includes any recommended changes in state law relating to persons with disabilities before the end of each even-numbered year.

Requires the Governor's Committee on People with Disabilities to serve as the state's liaison agency in working with the Office of Disability Employment Policy, rather than the President's Committee on Employment of Persons with Disabilities, and other entities involved in activities or concerns affecting persons with disabilities.

Requires the Governor's Committee on People with Disabilities to identify each long-range plan relating to persons with disabilities in this state created by a state agency, a committee of a state agency, or a nonprofit organization required by federal law to produce such a plan, and publish the link to the Internet website for each long-range plan, if available, on the Internet website of the Governor's Committee on People with Disabilities and to review and analyze the long-range plans to identify gaps in state laws and services for persons with disabilities and make biennial recommendations in the committee's required report to address identified gaps.

Texas Council for Developmental Disabilities—H.B. 1679

by Representative Raymond et al.—Senate Sponsor: Senator Birdwell

To receive federal funding through the federal Developmental Disabilities Assistance and Bill of Rights Act, states must establish and maintain a state council for developmental disabilities. Federal law prohibits the state council from being an agency that provides or pays for services to individuals with developmental disabilities. In Texas, the Texas Council for Developmental Disabilities (TCDD) serves in this role and is administratively attached to the Texas Education Agency.

The federal government funds TCDD—about $5 million annually—to engage in advocacy, capacity building, and systemic change activities that promote self-determination for people with developmental disabilities and their families. Primarily, TCDD awards grants for projects that focus on supporting education, employment, and community capacity for people with developmental disabilities.

TCDD is subject to the Texas Sunset Act and will be abolished on September 1, 2015, unless continued by the legislature. The Sunset Advisory Commission determined that Texas continues to need TCDD to receive federal funds to identify and address the most pressing needs of Texans with developmental disabilities to allow them to gain more control over their lives. This bill:

Continues TCDD for twelve years, until 2027.
Shortened Licensure Process for Certain Assisted Living Facilities—H.B. 1769
by Representative Zerwas et al—Senate Sponsor: Senator Uresti

Currently, an assisted living facility requesting a license to operate must submit building plans for approval, pass all local, fire, and safety inspections, pass an extensive life and safety inspection, staff and train employees, admit more than one but not more than three residents, and write to the Department of Aging and Disability Services (DADS) requesting a health inspection. Six to nine weeks after passing the health inspection the facility may receive its license and admit the remaining residents. The requirement that a facility hire and train a full staff, regardless of facility size, six to nine weeks before being inspected places an undue burden on the facility. This bill:

Authorizes an assisted living facility license applicant in good standing to request an initial license that does not require an on-site health inspection.

Prohibits DADS from requiring an applicant to admit a resident to the facility before DADS issues the license.

Requires DADS to require the license applicant to submit for approval policies and procedures, verification of employee background checks, and employee credentials.

Requires DADS to conduct a survey of a facility issued an initial license under the bill not later than the 90th day after the date on which DADS issues the license to the facility.

Requires the facility, until DADS conducts the survey, to disclose to all residents and prospective residents that DADS has not yet conducted the survey required by the bill.

Provides that a license applicant is in "good standing" if the license applicant, or the controlling person of the license applicant if the license applicant is a newly formed business entity, has operated or been the controlling person of an assisted living facility in this state for six consecutive years; and each assisted living facility operated by the license applicant, or operated or controlled by a controlling person of the license applicant if the license applicant is a newly formed business entity: has not had a violation that resulted in actual harm to a resident or that posed an immediate threat of harm causing, or likely to cause, serious injury, impairment, or death of a resident; and in the six years preceding the data on which the license applicant submits the application, has not had a sanction imposed by DADS against the facility, including the imposition of a civil or administrative penalty or an injunction, the denial, suspension, or revocation of a license, or an emergency closure.

Sibling’s Access to Child Separated by Action of DFPS—H.B. 1781
by Representative Greg Bonnen et al.—Senate Sponsor: Senator Larry Taylor

Under current law, a child adopted out of the foster care system who is under the age of 18 cannot file an original suit to gain visitation rights to a biological sibling. As a result, the biological siblings have a difficult time maintaining their relationship when they are separated during childhood. This bill:
Authorizes the sibling of a child who is separated from the sibling as the result of an action by the Department of Family and Protective Services (DFPS) to file a suit requesting access to the child, regardless of the sibling’s age.

Requires that a court expedite such a suit.

**Reports of Missing Children Deemed High Risk—H.B. 1793**

*by Representatives Frullo and Dale—Senate Sponsor: Senator Hinojosa*

Every year, approximately 800,000 children go missing in the United States, many of whom become vulnerable to child sex trafficking. S.B. 742, 83rd Legislature, Regular Session, 2013, required law enforcement agencies to report missing children deemed "high risk" into national databases to facilitate efforts to locate them. Law enforcement agencies have expressed the need to refine parameters for data collection to include children younger than 14 years of age categorized as being at high risk for such crimes. This bill:

Requires local law enforcement agencies, on receiving a report of a missing child to immediately start an investigation if child is at a high risk of harm or is otherwise in danger, rather than if the well-being of the child is in danger.

Requires the public safety director of the Department of Public Safety of the State of Texas (DPS) to adopt rules regarding the procedures for a local law enforcement agency on receiving a report of a missing child who is under 14 years of age and otherwise determined by the local law enforcement agency or DPS to be at a high risk of human trafficking, sexual assault, exploitation, abuse, or neglectful supervision.

Requires that such rules must that the local law enforcement agency indicate that the child is at a high risk of harm, rather than endangered.

Grants a local law enforcement agency the option to designate missing child as high risk if the missing child is at least 14 years of age and has been determined to be at a high risk of human trafficking, sexual assault, exploitation, abuse, or neglectful supervision.

Redesignates Section 411.0133 (Missing or Exploited Children Prevention Grants), Government Code, as Section 772.0072, Government Code.

Authorizes the criminal justice division of the governor's office, rather than DPS, to award a grant to a nonprofit organization related to missing or exploited children.

**Notice of Events Impacting the Education of Foster Children—H.B. 1804**

*by Representative Naishtat—Senate Sponsor: Senator West*

The intent of recent legislation relating to the educational needs of a child in substitute care has not been fully implemented and the law could be interpreted as requiring only a school district to provide notice to such a child's educational decision-maker and caseworker regarding events that may significantly impact
the education of the child. Interested parties contend that the intent of the legislation was to also require a school campus and an open-enrollment charter school to provide such notice. H.B. 1804 seeks to clarify the applicable law. This bill:

Requires the Texas Education Agency (TEA), in recognition of the challenges faced by students in substitute care, to assist the transition of substitute care students from one school to another by requiring school districts, campuses, and open-enrollment charter schools to provide notice to the child's educational decision-maker and caseworker regarding events that may significantly impact the education of a child.

Proves that the bill applies beginning with the 2015-2016 school year.

Higher Education Opportunities for Persons With IDDs—H.B. 1807
by Representative Naishat—Senate Sponsor: Senator Zaffirini

Currently there is no centralized inventory of postsecondary education opportunities for individuals with intellectual and developmental disabilities (IDDs). Advocates of H.B. 1807 argue that such a list would help students with IDDs achieve their educational goals. This bill:

Requires institutions of higher education to submit all postsecondary offerings for people with IDDs to the Texas Higher Education Coordinating Board (THECB).

Requires THECB to establish and maintain the inventory and make it accessible through its Internet website not later than September 1, 2016. Requires THECB to update the inventory biennially.

Requires THECB to provide the inventory to the Texas Education Agency (TEA). Requires TEA to include the inventory in the Texas transition and employment guide.

Child Safety Check Alert List—H.B. 2053
by Representative Farney et al.—Senate Sponsor: Senator Schwertner et al.

Interested parties contend that the current process of adding a family member, guardian, or child to the child safety check alert list is cumbersome and can take too much time. H.B. 2053 seeks to streamline this process to help law enforcement address potentially dangerous situations involving children. This bill:

Requires the Department of Family and Protective Services (DFPS) to, if at any time during an investigation of a report of child abuse or neglect to which DFPS has assigned the highest priority DFPS is unable to locate the child who is the subject of the report of abuse or neglect or the child's family, notify the Department of Public Safety of the State of Texas (DPS) that the location of the child and the child's family is unknown.

Requires DPS, on receipt of notice from DFPS, to notify the Texas Crime Information Center to place the child and the child's family on the child safety check alert list (CSCAL) and sets out the information that must be included on CSCAL.
Requires DPS to maintain CSCAL to help locate a child or the child's family for purposes of: investigating a report of child abuse or neglect; providing protective services to a family receiving family-based support services; or providing protective services to the family or a child in the managing conservatorship of DFPS.

Requires DPS, not later than February 1 of each year, with the assistance of DFPS, to prepare and submit a report on the use of CSCAL to the standing committees of the senate and the house of representatives with primary jurisdiction over child protective services and sets out information that must be included in the report.

Requires a peace officer, upon locating a child or other person listed on CSCAL, to: immediately contact DFPS; request information from DFPS regarding the circumstances of the case involving the child or other person; and request information from the child and the other person regarding the child's safety, well-being, and current residence.

Authorizes a peace officer, upon locating a child or other person listed on CSCAL, to temporarily detain the child or other person to ensure the safety and well-being of the child.

Authorizes a peace officer, if the peace officer determines that the circumstances described by Section 262.104, Family Code, exist, to take temporary possession of the child without a court order.

Requires the peace officer, if the peace officer does not take temporary possession of the child, to obtain the child's current address and any other relevant information and report that information to DFPS.

Requires a peace officer who locates child or other person listed on CSCAL and who reports the child's or other person's current address and other relevant information to DFPS to report to the Texas Crime Information Center that the child or other person has been located and to whom the child was released.

Requires the Texas Commission on Law Enforcement (TCOLE) to establish an education and training program on CSCAL and sets out required components of instruction.

Requires TCOLE to make the training program available to employees in the child protective services (CPS) division of DFPS, including caseworkers, supervisors, and special investigators.

Requires a peace officer, as a requirement for an intermediate or advanced proficiency certificate issued by TCOLE on or after January 1, 2016, to complete the CSCAL education and training program.

Developmentally Disabled Offender Program—H.B. 2189
by Representative Parker—Senate Sponsor: Senator Creighton

Offenders confined in Texas Department of Criminal Justice (TDCJ) facilities who possess an intellectual disability or are of borderline intellectual functioning may lack a safe living environment or programs for treating their conditions and providing effective rehabilitation services. This bill:

Require TDCJ to establish and maintain a program for offenders:
  • who are suspected of, or identified as, having an intellectual disability or borderline intellectual
functioning; and
- whose adaptive functioning is significantly impaired.

Requires that program must provide an offender with:
- a safe environment while confined; and
- specialized programs, treatments, and activities designed by TDCJ to assist the offender in effectively managing, treating, or accommodating the offender's intellectual disability or borderline intellectual functioning.

Authorizes TDCJ to accept gifts, awards, or grants for the purpose of providing the services under this Act.

Regulation of Prescribed Pediatric Extended Care Centers—H.B. 2340
by Representative Sheffield—Senate Sponsor: Senator Lucio

In 2013, S.B. 492 authorized the licensing and regulation of prescribed pediatric extended care centers (PPECCs). PPECCs allow Medicaid-eligible children with medically complex conditions to receive continual medical care in a non-residential setting. These services are offered to these children at a cost savings to the state, compared to the traditional private duty nursing (PDN) rates in a home setting. H.B. 2340 is an update and clarification bill to the statute governing PPECCs. This bill:

Prohibits a person from owning or operating a prescribed pediatric extended care center in this state unless the person holds an initial, renewal, or temporary license.

Prohibits an applicant for a prescribed pediatric extended care center license from providing services under that license until the Department of Aging and Disability Services (DADS) issues the license.

Provides that a separate initial, renewal, or temporary license is required for each center located on separate premises, regardless of whether the centers are under the ownership or operation of the same person.

Requires an applicant for an initial prescribed pediatric extended care center license to submit to DADS in accordance with DADS rules a sworn application on the form prescribed by DADS, a letter of credit as prescribed by DADS to demonstrate the applicant's financial viability, and the required fees.

Authorizes an applicant for an initial license to request, in the manner prescribed by DADS and in accordance with this section, that DADS issue a temporary license pending review of the applicant's application for an initial license.

Provides that an applicant is not required to request a temporary license to receive an initial or renewal license.

Provides that a temporary license authorizes an applicant to provide nonresidential basic services to not more than six minors until the temporary license expires or terminates.
Requires DADS, on receipt of a temporary license request, to conduct a review of the applicant's policies, procedures, and staffing plans to serve minors in the center.

Requires DADS to grant an applicant's request for a temporary license if DADS determines the applicant is eligible for the license.

Prohibits DADS from granting a request for a temporary license if DADS determines the applicant is ineligible for the license.

Provides that an applicant is eligible for a temporary license only if the applicant meets: the license application requirements of Sections 248A.052(a) and (b), Health and Safety Code, and the license application rules adopted under the bill; the building requirements and standards for a center provided in DADS rules adopted under this chapter; and the requirements of a DADS review.

Provides that a temporary license issued under this section expires on the earlier of: the 90th day after the date the temporary license is issued or the last day of any extension period granted by DADS; or the date an initial license is issued.

Prohibits DADS from granting more than one extension of a temporary license and from granting an extension for a period that exceeds 90 days.

Requires DADS to grant an extension if a temporary license holder submits to DADS an extension request in the manner prescribed by DADS not later than the 30th day before the date the temporary license expires.

Requires a temporary license holder to comply with Chapter 248A, Health and Safety Code, and the rules adopted under the bill for the period for which the temporary license is issued, including an extension, if applicable.

Authorizes DADS to take an enforcement action against a temporary license holder for failure to comply with Chapter 248A, Health and Safety Code, and the rules adopted under the chapter.

Authorizes DADS to conduct a complaint investigation and inspection of a temporary license holder.

Provides that an initial or renewal license issued under this chapter expires on the second anniversary of the date of issuance.

Provides that a minor client's parent, legal guardian, or managing conservator is not required to accompany the client when the client receives services in the center, including therapy services delivered in the center but billed separately, or when the center transports or provides for the transport of the client to and from the center.

Requires that nursing services provided by a center be a one-to-one replacement of private duty nursing or other skilled nursing services unless additional nursing services are medically necessary.
Requires the executive commissioner of the Health and Human Services Commission (HHSC), not later than September 1, 2016, to adopt the rules necessary to implement Chapter 248A, Health and Safety Code, as amended by the bill.

Requires the executive commissioner of HHSC, as soon as practicable after the effective date of the bill, to establish a reimbursement rate for licensed pediatric extended care centers that are enrolled in the medical assistance program that, when converted to an hourly rate, is not more than 70 percent of the average hourly unit rate for private duty nursing provided under the Texas Health Steps Comprehensive Care Program.

Provides that the changes in law made by the bill related to temporary licenses apply only to a temporary license application submitted to or an inspection conducted by DADS on or after September 1, 2016.

Department of Assistive and Rehabilitative Services—H.B. 2463
by Representative Raymond et al.—Senate Sponsor: Senator Campbell

The legislature created the Department of Assistive and Rehabilitative Services (DARS) in 2003 to work with Texans with disabilities to improve the quality of their lives and to enable their full participation in society. To achieve its mission, DARS focuses on providing time-limited services through a variety of state and federal programs.

DARS is subject to abolishment under the Texas Sunset Act on September 1, 2015, unless continued by the legislature. The Sunset Advisory Commission did not recommend continuing DARS, but instead recommended consolidating the agency with the other health and human services agencies in a functional approach under the Health and Human Services Commission (HHSC). This bill:

Provides that, not later than September 1, 2016, all functions of DARS and the Assistive and Rehabilitative Services Council (council), including administrative support services functions, are transferred to HHSC.

Provides that a rule, policy, or form adopted by or on behalf of DARS or the council that related to a function that is transferred to HHSC becomes a rule, policy, or form of HHSC on transfer of the related function and remains in effect until altered by the executive commissioner of HHSC or HHSC, as appropriate, or unless it conflicts with a rule, policy, or form of HHSC.

Provides that a license, permit, or certification in effect that was issued by DARS that related to a function that is transferred to HHSC is continued in effect as a license, permit, or certification of HHSC on transfer of the related function until the license, permit, or certification expires, is suspended or revoked, or otherwise becomes invalid.

Creates the Health and Human Services Transition Legislative Oversight Committee to facilitate the transfer of functions to or from HHSC and sets forth requirements for the committee. Requires the committee to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and legislature not later than December 1 of each even-numbered year.
Requires that the transfer of functions from DARS to HHSC be accomplished in accordance with a transition plan developed by the executive commissioner of HHSC that ensures that the transfer and provision of health and human services in this state are accomplished in a careful and deliberative manner and sets forth requirements for the transition plan.

Requires the executive commissioner of HHSC, in developing the transition plan, before submitting the plan to the committee, the governor, and the Legislative Budget Board (LBB), to hold public hearings in various geographic areas in this state regarding the plan and to solicit and consider input from appropriate stakeholders. Requires the executive commissioner to submit the transition plan to the committee, the governor, and the LBB not later than March 1, 2016.

Requires DARS, not later than September 1, 2016, to integrate the Independent Living Program for individuals who are blind or have visual impairments and the Independent Living Services Program for individuals with significant disabilities into a single independent living services program.

Requires DARS to ensure that all services provided under the independent living services program are directly provided by centers for independent living and are not directly provided by DARS.

Requires DARS, if an area of the state does not have a center for independent living, or no center for independent living in that area is able to provide certain necessary services under the independent living services program, to seek to identify a center for independent living that is willing and able to contract with a nonprofit organization or other person to provide the independent living services in the area under the program. Authorizes DARS, if no center for independent living is willing and able to contract with another organization or other person, to directly contract with an organization or other person who is not a center or independent living to provide the independent living services in the area under the program.

Requires DARS to operate a comprehensive rehabilitation services program to provide comprehensive rehabilitation services to persons with traumatic brain or spinal cord injuries and requires the executive commissioner of HHSC to adopt rules for the program.

Requires DARS to operate a children's autism program to provide services to children with autism spectrum disorders and requires the executive commissioner of HHSC to adopt rules for the program.

Requires DARS to use program data and best practices to establish and maintain guidelines that provide direction for caseworker decisions in all direct services programs provided through DARS.

Requires DARS to establish and maintain a single, uniform case review system for all direct services programs.

Care for Residents With Alzheimer's Disease or Related Disorders—H.B. 2588

by Representatives Naishtat and Guillen—Senate Sponsor: Senator Zaffirini

Currently, nursing homes and assisted living facilities may advertise, market, or otherwise promote care specifically for persons with Alzheimer's and related disorders without holding a specific certification to
provide these services. Advertising and marketing strategies can be confusing and leave a family uninformed. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) by rule to adopt a definition of "Alzheimer's disease and related disorders," authorizes the executive commissioner to adopt by reference a definition published in a generally accepted clinical resource for medical professionals, and requires the executive commissioner to modify the definition as necessary to conform to changes in medical practice.

Amends Section 242.202(d), Health and Safety Code, as follows: includes information relating to whether the institution is certified under Section 242.040 (Certification of Institutions that Care for Persons With Alzheimer's Disease and Related Disorders) for the provision of specialized care and treatment of residents with Alzheimer's disease and related disorders among the information a certain disclosure statement is required to contain.

Requires the executive commissioner of HHSC to require each assisted living facility to include in the facility's consumer disclosure statement whether the facility holds a license classified under Section 247.029 (Facilities for Persons With Alzheimer's Disease), Health and Safety Code, for the provision of personal care services to residents with Alzheimer's disease or related disorders.

Requires the executive commissioner, as soon as practicable after the effective date of this bill, to adopt any necessary rules prescribing the form of the disclosures and rules prescribing definitions, as amended by this bill.

Prosecution of and Punishment for Assaulting a Disabled Individual—H.B. 2589
by Representatives Phelan and Fallon—Senate Sponsor: Senator Nichols

There is a gap in current law regarding the age at which a disabled individual is considered a juvenile for purposes of certain sexual assault offenses. Under Section 22.04(c), Penal Code, a child is defined as a person younger than 14 years of age, whereas a disabled individual is defined as a person "older than 14 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect himself from harm or to provide food, shelter, or medical care for himself." Because of this age gap, a victim who is not old enough to be considered a disabled individual for purposes of the more serious offense of aggravated sexual assault is, at the same time, not young enough for purposes of that same offense when the age of the victim is considered. In this case the offender can only be charged with the less serious offense of sexual assault. This bill:

Defines "disabled individual" to mean a person older than 13 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.
Evidence-Based Parent Education Programs—H.B. 2630

by Representative Senfronia Thompson—Senate Sponsor: Senator Uresti

Parent education is designed to improve parenting skills and family communication, prevent child and family problems, and educate parents on child development and positive parenting practices with a goal of developing safe, stable, and nurturing parent-child relationships. Research has demonstrated that evidence-based parent education has a positive impact on families, including lowering rates of behavioral disorders in children, parental stress and anxiety, and child maltreatment. However, most parenting classes in the state of Texas are not evidence-based and have not been shown to have the same impact. Funding programs that have not been proven to be effective is not a good use of state funds. Publicly funded programs that are not evidence-based divert resources from programs that have been proven to work and are a detriment to the well-being of Texas families.

Texas currently funds parent education primarily through the Department of Family and Protective Services (DFPS), and while some of this funding goes towards evidence-based programs, a significant portion goes to programs that have not been proven effective in accomplishing the state’s goal of preventing child maltreatment. Furthermore, there are no statewide quality standards for the parent education programs that highest risk parents, those involved in CPS and the court system, are mandated to complete. This bill:

Requires that a parenting education program, if DFPS requires or a court orders parenting skills training services through such a program, be an evidence-based or promising practice parenting education program that is provided in the community in which the family resides, if available.

Requires DFPS, to the extent that money is appropriated for the purpose, to fund evidence-based programs, including parenting education, home visitation, family support services, mentoring, positive youth development programs, and crisis counseling, offered by community-based organizations that are designed to prevent or ameliorate child abuse and neglect and authorizes the programs funded under this subsection to be offered by a child welfare board, a local governmental board granted the powers and duties of a child welfare board under state law, a children’s advocacy center, or other persons determined appropriate by DFPS.

Requires DFPS to ensure that not less than 75 percent of the money appropriated for parenting education programs funds evidence-based programs and that the remainder of that money funds promising practice programs.

Requires DFPS to develop and implement a five-year strategic plan for prevention and early intervention services and, not later than September 1 of the last fiscal year in each five-year period, to issue a new strategic plan for the next five fiscal years beginning with the following fiscal year.

Defines "evidence-based program" as a parenting education program that: is research-based and grounded in relevant, empirical knowledge and program-determined outcomes; has comprehensive standards ensuring the highest quality service delivery with continuous improvement in the quality of service delivery; has demonstrated significant positive short-term and long-term outcomes; has been evaluated by at least one rigorous, random, controlled research trial across heterogeneous populations or communities with research results that have been published in a peer-reviewed journal; substantially complies with a program manual or design that specifies the purpose, outcomes, duration, and frequency of
the program services; and employs well-trained and competent staff and provides continual relevant professional development opportunities to the staff.

Defines "promising practice program" as a parenting education program that: has an active impact evaluation program or demonstrates a schedule for implementing an active impact evaluation program; has been evaluated by at least one outcome-based study demonstrating effectiveness or random, controlled trial in a homogeneous sample; substantially complies with a program manual or design that specifies the purpose, outcomes, duration, and frequency of the program services; employs well-trained and competent staff and provides continual relevant professional development opportunities to the staff; and is research-based and grounded in relevant, empirical knowledge and program-determined outcomes.

Requires DFPS to ensure that a parenting education program achieves favorable behavioral outcomes in at least two of the following areas: improved cognitive development of children; increased school readiness of children; reduced child abuse, neglect, and injury; improved child safety; improved social-emotional development of children; improved parenting skills, including nurturing and bonding; improved family economic self-sufficiency; reduced parental involvement with the criminal justice system; and increased paternal involvement and support.

Requires DFPS to adopt outcome indicators to measure the effectiveness of parenting education programs in achieving desired outcomes.

Requires DFPS, not later than December 1, 2016, and each even-numbered year thereafter, to prepare and submit a report on state-funded parenting education programs to the standing committees of the senate and house of representatives with jurisdiction over child protective services.

**Study of Caregiver Placement Programs by DFPS—H.B. 2655**
*by Representatives Frank and Guillen—Senate Sponsor: Senator Estes*

The Department of Family and Protective Services (DFPS) administers many different types of care within the state's foster care system. One of the goals of the relative and other designated caregiver placement program, otherwise known as kinship care, is to keep children in the system with family members. This bill:

Requires the DFPS to study the effectiveness of the relative and other designated caregiver placement program created by certain provisions of the bill and make recommendations to the legislature for improving the program. Requires that the recommended improvements be designed to minimize the number of placements for each child, maximize efficiency in the distribution of any monetary or other assistance for which caregivers qualify, facilitate a safe and permanent exit from the managing conservatorship of DFPS in as timely a fashion as possible, and assist caregivers in obtaining the verification necessary to qualify for foster care maintenance reimbursement. Provides that the recommendations may include increases in the amount of assistance and the identification of automated or other processes designed to speed the payment of assistance.

Requires DFPS to report its findings and recommendations to the legislature not later than January 1, 2017. Provides that provisions of the bill expire on September 1, 2017.
Providing Relatives Access to or Information Regarding a Ward—H.B. 2665

by Representative Moody—Senate Sponsor: Senator Zaffirini

A guardian has broad authority that can be used to prevent family members, including children, from visiting or communicating with the person under guardianship. Further, a guardian is not legally required to notify the family of major changes in the person's health, location, or even of the person's death. The guardian can interfere with the person's desire to see his or her children, and a child of the person under guardianship can be denied visitation to the parent and not provided with timely notifications of serious changes in the parent's health or of the parent's death. This bill:

Adds Section 1151.055 (Application by Certain Relatives for Access to Ward; Hearing and Court Order) to the Estates Code:
- Authorizes a relative of a ward to file an application with the court requesting access to the ward.
- Requires that the court:
  - schedule a hearing on the application not later than the 60th day after the date an application is filed; or
  - if the application states that the ward's health is in significant decline or that the ward's death may be imminent, conduct an emergency hearing as soon as practicable, but not later than the 10th day after the date the application is filed.
- Sets forth notice requirements.
- Provides that an order issued under this section may:
  - prohibit the ward's guardian from preventing the applicant access to the ward if the applicant shows by a preponderance of the evidence that the guardian prevented access to the ward and the ward desires contact with the applicant; and
  - specify the frequency, time, place, location, and any other terms of access.
- Requires that a court, in deciding whether to issue or modify an order issued under this section, consider:
  - whether any protective orders have been issued against the applicant to protect the ward;
  - whether a court or other state agency has found that the applicant abused, neglected, or exploited the ward; and
  - the best interest of the ward.
- Authorizes the court to consider whether to permit supervised visitation or to deny or suspend visitation.
- Authorizes the court to award court costs and attorney's fees to the prevailing party in any action brought under this section.
- Prohibits paying any awarded court costs or attorney's fees from the ward's estate.

Adds Section 1151.056 (Guardian's Duty to Inform Certain Relatives About Ward's Health and Residence) to the Estates Code:
- Requires the guardian of an adult ward to, as soon as practicable, to inform relatives if:
  - the ward dies;
  - the ward is admitted to a medical facility for acute care for a period of three days or more;
  - the ward's residence has changed;
  - the ward is staying at a location other than the ward's residence for a period that exceeds one calendar week.
Requires the guardian, in the case of the ward's death, to inform relatives of any funeral arrangements and the location of the ward's final resting place.

Provides that a relative may elect to not receive the notice by providing a written request to that effect to the guardian.

Requires the guardian to file any such written request with the court.

Authorizes the court, on a motion filed showing good cause, and after a relative is provided an opportunity to present evidence, to relieve the guardian of the duty to provide notice about a ward to a relative.

Requires that the court relieve the guardian of the duty to provide notice about a ward to a relative if the court finds that:
- the motion includes a written request from a relative electing to not receive the notice;
- the guardian was unable to establish communication with or locate the relative after making reasonable efforts;
- a protective order was issued against the relative to protect the ward;
- a court or state agency has found that the relative abused, neglected, or exploited the ward;
- notice is not in the best interest of the ward.

Trauma-Informed Care Training for Certain Employees—H.B. 2789
by Representatives Raymond and Naishtat—Senate Sponsor: Senator Zaffirini

Persons with intellectual and other developmental disabilities (IDD) experience trauma at a much higher rate than the general public. Their trauma often stems from abuse, neglect, bullying, isolation, or institutionalization. Traumatic experiences can result in further delayed development as well as mental health conditions that can manifest in negative behaviors. Unfortunately, services and programs for persons with IDD frequently focus on managing those behaviors instead of addressing the person's mental health needs.

Trauma-informed care is evidenced-based treatment and support that has been determined to be effective in improving the mental health of those who have experienced trauma. This type of care puts an emphasis on a person's experiences by building support and needed treatment using that information. This bill:

Requires the Department of Aging and Disability Services to develop or adopt trauma-informed care training for employees who work directly with individuals with IDD in state supported living centers and intermediate care facilities.

Requires the executive commissioner of the Health and Human Services Commission by rule to require new employees to complete the training before working with individuals with IDD and provides that the training required by the bill may be provided through an Internet website.
Counsel in Suits Affecting the Parent-Child Relationship—H.B. 3003
by Representative Senfronia Thompson—Senate Sponsor: Senator Garcia

Court-appointed legal representation in child protection cases varies around the state, but it is primarily accomplished through court appointments of private or solo practitioners. There are other models of representation around the state and nation, including individual court appointments, public defender offices, regional public defenders, private contract attorneys, and statewide models with a centralized management structure and budget authority. Most of the discussion around models of representation in Texas has centered around the concept of public defender offices. However, public defender offices can be expensive to start, and maintaining manageable caseloads can be an issue.

Currently, the Family Code does not expressly authorize the use of public funds for the creation of public defender or managed assigned counsel (MAC) offices for child protection cases. Setting up such public defender or MAC offices can concentrate expertise and the availability of resources in a way that is more efficient and cost effective for the county, and provides better quality legal representation for children or parents in Child Protective Services (CPS) cases. This bill:

Adds Subchapter E (Office of Child Representation and Office of Parent Representation) to the Family Code:

- Provides that this subchapter applies to a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for a child in which appointment of an attorney is required under certain specified provisions of the Family Code.
- Provides that this subchapter does not prevent a nonprofit corporation from receiving and using money obtained from other entities to provide legal representation and services as authorized by this subchapter.
- States that:
  - an office of child representation (OCR) is an entity that uses public money to provide legal representation and services for a child in a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for the child in which appointment is mandatory for a child under certain provisions of the Family Code; and
  - an office of parent representation (OPR) is a similar entity that provides legal representation and services for a parent in such suits.
- Provides that such offices may be governmental entities or a nonprofit corporations operating under a written agreement with a governmental entity, other than an individual judge or court.
- Authorizes the commissioners court of any county, on written approval of a judge of a statutory county court or a district court having family law jurisdiction in the county, to create an OCR, an OPR, or both by establishing a department of the county or designating under a contract a nonprofit corporation to perform the duties of an office.
- Authorizes the commissioners courts of two or more counties to enter into a written agreement to jointly create and jointly fund a regional OCR, a regional OPR, or both regional offices.
- Requires a commissioners court or commissioners courts to specify:
  - the duties of the office or offices;
  - the types of cases to which an office may be appointed and the courts in which an attorney employed by the office may be required to appear;
  - if an office is a nonprofit corporation, the term during which the contract designating the office
is effective and how that contract may be renewed on expiration of the term; and
  o if an oversight board is established under this Act, the powers and duties delegated to the
  oversight board.
• Requires a commissioners court or commissioners courts to:
  o solicit proposals before contracting with a nonprofit corporation to serve as an OCR or OPR;
  and
  o select a proposal that reasonably demonstrates that the office will provide adequate quality
    representation for children or parents for whom appointed counsel is required under certain
    provisions of the Family Code, as applicable.
• Provides that the total cost of the proposal may not be the sole consideration in selecting a
  proposal.
• Provides that a commissioners court or commissioners courts must require a written plan of
  operation from an entity serving as an OCR or OPR, and sets forth what the plan must include.
• Requires an OCR or OPR to be directed by a chief counsel and sets forth the qualifications of such
  chief counsel.
• Authorizes such offices to employ attorneys and other personnel necessary to perform the duties of
  the office as specified by the commissioners court or commissioners courts.
• Sets forth the continuing education and training requirements of an attorney for such an office.
• Provides that the chief counsel and other attorneys employed by an office may not:
  o engage in the private practice of child welfare law; or
  o accept anything of value not authorized by the Family Code for services rendered.
• Authorizes a judge to remove from a case a person who violates these provisions.
• Requires a county served by an OCR or OPR to appoint for a child or parent, as applicable, an
  attorney from the office in a suit filed in the county by a governmental entity seeking termination of
  the parent-child relationship or the appointment of a conservator for the child, unless there is a
  conflict of interest or other reason to appoint a different attorney.
• Prohibits an OCR or OPR from accepting an appointment under certain circumstances, including if
  a conflict of interest exists or the appointment would require one or more attorneys at the office to
  have a caseload that exceeds the maximum allowable caseload.
• Authorizes an OPR to investigate the financial condition of any parent the office is appointed to
  represent.
• Requires the office to report the results of the investigation to the appointing judge.
• Authorizes a judge to hold a hearing to determine if the person is indigent and entitled to
  appointment of representation.
• Sets forth the compensation of an appointed attorney who is not employed by an OCR or OPR.
• Provides that an OCR or OPR is entitled to receive money for personnel costs and expenses
  incurred in operating as an office in amounts set by the commissioners court and paid out of the
  appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out
  of each appropriate county fund, as appropriate.
• Authorizes the commissioners court or commissioners courts to establish an oversight board
  (board) for OCR or OPR and sets forth the membership of a board.
• Authorizes a commissioners court to delegate to the board any power or duty of the commissioners
  court to provide oversight of an OCR or OPR.
• Prohibits a board from accessing privileged or confidential information.
- Provides that a judge serving on a board under this section has judicial immunity.

Adds Subchapter F (Managed Assigned Counsel Program for the Representation of Certain Children and Parents) to the Family Code:

- Provides that an MAC program may be operated with public money for the purpose of appointing counsel to provide legal representation and services for a child or parent in a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for the child in which appointment is mandatory for a child or parent under certain provisions of the Family Code.
- Authorizes an MAC program to be operated by a governmental entity, nonprofit corporation, or local bar association under a written agreement with a governmental entity, other than an individual judge or court.
- Authorizes a commissioners court, on written approval of a judge of a statutory county court or a district court having family law jurisdiction in the county, to appoint a governmental entity, nonprofit corporation, or bar association to operate an MAC program for the legal representation of a child or parent in certain suits in which appointment is mandatory.
- Authorizes the commissioners courts of two or more counties to enter into a written agreement to jointly appoint and fund a governmental entity, nonprofit corporation, or bar association to operate an MAC program that provides legal representation for children, parents, or both children and parents.
- Requires the commissioners court or commissioners courts to require a written plan of operation from an entity operating an MAC program and sets forth what the plan must include.
- Provides that, unless an MAC program uses a review committee appointed under this subchapter, the program must be directed by a person who is a member of the State Bar of Texas, has practiced law for at least three years, and has substantial experience in the practice of child welfare law.
- Authorizes an MAC program to employ personnel necessary to perform the duties of the program and enter into contracts necessary to perform the program’s duties.
- Requires the MAC program’s public appointment list to contain the names of qualified attorneys, each of whom:
  - applies to be included on the list;
  - meets any applicable requirements; and
  - is approved by the program director or review committee, as applicable.
• Authorizes an MAC program to receive money for personnel costs and expenses incurred in amounts set by the commissioners court and paid out of the appropriate county fund or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund, as appropriate.

• Provides that an attorney appointed under the MAC program is entitled to reasonable fees.

Pilot Program to Provide Protective Services to Certain Persons—H.B. 3092

by Representatives Rose and Guillen—Senate Sponsor: Senator West

Currently, Adult Protective Services (APS) In-Home only provides services in investigations in which abuse, neglect, or exploitation (ANE) is validated. Effective September 2014, APS implemented a new casework practice model based on structured decision making tools developed by the National Council on Crime and Delinquency. These tools represent best practice in APS casework and include use of a validated and actuarial risk of recidivism assessment as contemplated by Section 48.004 (Risk Assessment), Human Resources Code. The risk of recidivism assessment tool allows APS to predict likelihood of future harm and is used to determine whether a client qualifies for intensive case services.

Under current law, in addition to a medium or high risk level on the assessment tool, a client must have a validated allegation of ANE to receive services. If a client has a medium or high risk level but does not have a valid finding of ANE, then APS cannot provide services. As a best practice model, the structured decision making process assumes the need for protective services based on client risk of recidivism and not on case validation. This bill:

Requires the Department of Family and Protective Services (DFPS), using existing resources, to develop and implement a pilot program that evaluates the feasibility and associated benefits of providing protective services when an elderly person or person with a disability has been determined, using criteria developed under Section 48.004, to be at risk of future harm from abuse, neglect, or exploitation, but who is not in a state of abuse, neglect, or exploitation.

Provides that Section 48.1523 (Management Review Following Certain Investigations), Human Resources Code, does not apply to reports considered under the pilot program.

Authorizes DFPS to terminate the pilot program if the executive commissioner determines the termination is appropriate.

Provides that the pilot program terminates August 31, 2017, unless the program is terminated before that date.

Requires DFPS to prepare and issue a report of preliminary findings from the pilot program to the governor of the State of Texas, the lieutenant governor, and the standing legislative committees with primary jurisdiction over health and human services, not later than December 15, 2016.

Requires DFPS to submit a final report on the pilot program to the governor of the State of Texas, the lieutenant governor, and the standing legislative committees with primary jurisdiction over health and human services, not later than December 15, 2017.
Orders in Suit Affecting the Parent-Child Relationship—H.B. 3121
by Representative Senfronia Thompson—Senate Sponsor: Senator Rodríguez

Concerned observers assert the need for more adequate measures to ensure that parties in conflict or divorce abide by a judge’s temporary orders and standing orders, including orders intended to prevent the parties from selling assets, hiding or spending money, incurring unnecessary debt, cancelling credit cards, changing beneficiaries of life insurance policies, altering utilities, or otherwise harassing the other party. This bill:

Expands provisions regarding the enforcement of final orders to include enforcing temporary orders.

Defines “temporary order” as including a temporary restraining order, standing order, injunction, and any other temporary order rendered by a court.

Sets forth notice and hearing requirements for certain final orders.

Central Database of Information Regarding Certain Guardianships—H.B. 3424
by Representative Smithee—Senate Sponsor: Senator Zaffirini

Some persons suffering from mental illness have conditions so severe that they are deemed legally incapacitated and are put under guardianship. While these persons may be physically healthy, they may have mental challenges that impede their ability to cooperate with caretakers or even cause them to take actions counter to their own health and safety. Often, in the case of a problematic event involving a mentally incapacitated person, emergency service providers, such as police or hospital personnel, are the first on the scene of the event, but may find it difficult to provide the requisite care and may be unable to determine the person’s identity or the identity of the person’s guardian. This bill:

Requires the Office of Court Administration of the Texas Judicial System (OCA) to study:

- the feasibility of developing, implementing, and maintaining a computerized central database of the names of incapacitated persons and the name and contact information for the guardian appointed for each person; and
- best practices for protecting the confidentiality of information in the database.

Requires the director of OCA, not later than December 1, 2016, to report on the results of the study to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate standing committees of the senate and the house of representatives.

Provides that this Act expires September 1, 2017.

Establishing Education Liaisons for Foster-Care Youth—H.B. 3748
by Representative Farney—Senate Sponsor: Senator West

Studies indicate that college graduation rates for foster-care youth are extremely low, with rates ranging from two to nine percent. Currently, the Texas Education Agency (TEA) has a position dedicated to working
with school districts to help them meet the needs of foster-care youth. Advocates argue that staff expertise in these positions have developed best practices, which have helped foster-care youth succeed in K-12 education.

Independent school districts are currently required to designate a liaison for foster-care youth to address education challenges that are unique to foster-care youth.

While the Department of Family and Protective Services (DFPS) currently shares information on students in foster care through a "memorandum of understanding" with TEA, no such sharing of information exists between DFPS and THECB. Advocates argue that sharing information between DFPS and THECB will provide a more detailed analysis of educational outcomes for foster-care youth and enable the state to study long term trends of foster-care youth in higher education. This bill:

Codifies the liaison position within TEA that is dedicated to working with school districts to meet the needs of foster-care youth.

Requires THECB and each institution of higher education (IHE) to designate at least one employee of THECB and IHE to act as a liaison officer for higher education students who are former foster-care youths.

Requires THECB and DFPS to enter into a memorandum of understanding for the purpose of evaluating educational outcomes of former foster-care youth.

Program of All-Inclusive Care for the Elderly—H.B. 3823

by Representative Price et al.—Senate Sponsor: Senators Rodríguez and Perry

The Program of All-Inclusive Care for the Elderly (PACE) is a Medicaid and Medicare program serving individuals who are 55 or older, are living with certain health care needs, are eligible by the state to receive nursing home care, and can live safely in the community. If appropriate, PACE provides all services covered by Medicare and Medicaid as well as additional services, such as adult day care, occupational and recreational therapies, and home health and personal care, that are determined necessary by a health care team to improve and maintain the participant's overall health status.

PACE is a capitated program with fixed monthly rates for each individual admitted to the program regardless of whether the individual's health deteriorates, at which point the program will cover the increase in health care costs. This is in contrast to the STAR+PLUS Medicaid managed care program, which places all the risk on the state by adjusting rates in conjunction with the individual's current health status.

Evaluations have shown that individuals who are admitted to the PACE program typically have better outcomes than those in other programs, but current data does not allow the state to compare Medicaid client outcomes across the PACE and the STAR+PLUS programs. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC), in setting the reimbursement rates under the PACE program, to ensure that reimbursement rates for providers under the program are adequate to sustain the program; and that the program is cost-neutral or costs less when compared to the cost to serve a population in the STAR+PLUS Medicaid managed care program that is
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comparable in: age; eligibility factors, including income level, health status, and impairment level; geographic location; living environment; and other factors determined to be necessary.

Requires HHSC to consider data on the cost of services provided to comparable recipients enrolled in the STAR+PLUS Medicaid managed care program to calculate the upper payment limit component of the PACE program reimbursement rates and provides that the cost of those services includes the Medicaid capitation payment per recipient and Medicaid payments made on a fee-for-service basis for services not covered by the capitation payment.

Requires HHSC, in collaboration with the Department of Aging and Disability Services (DADS) and appropriate stakeholder groups, to modify the methods by which HHSC and DADS collect data for evaluation of the PACE and STAR+PLUS Medicaid managed care programs to allow comparison of recipient outcomes between the programs and requires that the modification to data collection methods include changes to: survey instruments that measure recipient experience; compilation of the same or similar complaint, disenrollment, and appeals data; and compilation of the same or similar hospital admissions and readmissions data.

Requires HHSC, in collaboration with DADS and appropriate stakeholder groups, to conduct an evaluation of the PACE program that compares Medicaid costs and client outcomes under the PACE program to Medicaid costs and client outcomes under the STAR+PLUS Medicaid managed care program and requires HHSC to design the evaluation in a manner that compares similar recipient types between the programs in term of recipient: age; eligibility factors, including income level, health status, and impairment level; and living environment; and accounts for differences among recipients in geographic location, health care acuity, and other factors determined to be necessary.

Requires that the evaluation required by the bill include an assessment of future cost implications if HHSC fails to establish a reimbursement methodology under the PACE program.

Requires HHSC to compile a report on the findings of the evaluation required by the bill and submit the report to the Legislative Budget Board and the governor not later than December 1, 2016.

Provides that the section of the bill relating to the evaluation and report comparing PACE and STAR+PLUS Medicaid managed care programs expires on September 1, 2017.

Providers of Home and Community Support Services—H.B. 4001

by Representatives Raymond and Faircloth—Senate Sponsor: Senators Schwertner and Lucio

Texas recently received approval for a federal Medicaid program called Community First Choice (CFC) that allows the state to provide habilitation and attendant services in the STAR+PLUS Medicaid managed care program. Under CFC, home and community support services agencies (HCSSAs) will be providers of habilitation services. H.B. 4001 adds the definition of habilitation to the HCSSA licensure statute. This bill:

Defines "habilitation" and redefines "home and community support services agency" and "place of business."
Amends Section 142.0011 (Scope, Purpose, and Implementation), Health and Safety Code, to add person-centered service delivery to the components of quality care.

Requires the Department of Aging and Disability Services (DADS) to protect clients of home and community support services agencies by enabling agencies to provide person-centered services that allow clients to maintain the highest degree of independence and self-determination.

Prohibits a person, including a health care facility licensed under Chapter 142 (Home and Community Support Services), Health and Safety Code, except as provided by Section 142.003 (Exemptions From Licensing Requirement), from engaging in the business of providing home health, hospice, habilitation, or personal assistance services, or representing to the public that the person is a provider of such services for pay without a home and community support services agency license authorizing the person to perform those services issued by DADS for each place of business from which such services are directed.

Provides that the following persons need not be licensed under Chapter 142, Health and Safety Code: a registry that operates solely as a clearinghouse to put consumers in contact with persons who provide home health, hospice, habilitation, or personal assistance services and that does not maintain official client records, direct client services, or compensate the person who is providing the service; an employee of a person licensed under Chapter 142, Health and Safety Code, who provides home health, hospice, habilitation, or personal assistance services only as an employee of the license holder and who receives no benefit for providing the services, other than wages from the license holder; or a person that provides home health, hospice, habilitation, or personal assistance services only to persons receiving benefits under the STAR + PLUS or other Medicaid managed care program under the program’s Home and Community-based Services (HSC) or Texas Home Living (TxHmL) program.

Requires a home and community support services agency to provide each person who receives home health, hospice, habilitation, or personal assistance services with a written statement that contains the name, address, and telephone number of DADS and a statement that informs the recipient that a complaint against a home and community support services agency may be directed to DADS.

Requires DADS to provide specialized training to representatives of DADS who survey home and community support services agencies and requires DADS, in developing and updating the training, to consult with and include providers of home health, hospice, habilitation, and personal assistance services, recipients of those services and their family members, and representatives of appropriate advocacy organizations.

Requires DADS to maintain records or documents relating to complaints directed to DADS by consumers of home health, hospice, habilitation, or personal assistance services and makes no further change.

Prohibits a person licensed under Chapter 142, Health and Safety Code, from retaliating against another person for filing a complaint, presenting a grievance, or providing in good faith information relating to home health, hospice, habilitation, or personal assistance services provided by the license holder.

Requires the executive commissioner of DADS by rule to set minimum standards for home and community support services agencies licensed under this chapter that relate to any other aspects of home health, hospice, habilitation, or personal assistance services as necessary to protect the public.
Requires DADS to require each person or home and community support services agency providing home health, hospice, habilitation, or personal assistance services to implement and enforce the applicable provisions of Chapter 102 (Rights of the Elderly), Human Resources Code.

Provides that a person who engages in the business of providing home health, hospice, habilitation, or personal assistance services, or represents to the public that the person is a provider of home health, hospice, habilitation, and personal assistance services for pay, without a license issued under Chapter 142, Health and Safety Code, authorizing the services that are being provided is liable for a civil penalty of not less than $1,000 or more than $2,500 for each day of violation.

Authorizes DADS to assess an administrative penalty against a person who violates Chapter 142, Health and Safety Code, or a rule adopted under this chapter or Section 102.001 (Soliciting Patients; Offense), Occupations Code, if the violation relates to the provision of home health, hospice, habilitation, or personal assistance services.

Authorizes DADS, in lieu of imposing an administrative penalty, to allow a provider found to have committed a minor violation to have a reasonable period of time that is not less than 45 days after the date DADS sends notice to the provider of the violation to take corrective action regarding the violation and provides that DADS may not allow time for corrective action for any violation that is not a minor violation.

Requires the executive commissioner to adopt the rules necessary to implement the changes in law made by this bill not later than December 1, 2015.

**Video Recordings Made by Children's Advocacy Centers—S.B. 60**

*by Senator Nelson—House Sponsor: Representative Price*

Current law provides that a video recording of an interview of a child may be made at a children’s advocacy center (CAC). CACs often perform a forensic interview of a child in a child sexual abuse case. Experts report that these interviews are an incredibly important tool for investigators and prosecutors in cases for which there is little case evidence and a lack of medical findings. Forensic interviews were usually conducted on-site at a CAC facility, but many centers have begun using mobile forensic equipment for off-site forensic interviews to better serve the CAC’s service area. Interested parties assert that it is necessary to clarify that a CAC may conduct forensic interviews off-site, and that the actual video recording belongs to law enforcement. This bill:

Changes current statutory language to provide that a video recording of an interview of a child that is made by, rather than at, a CAC is the property of the prosecuting attorney.

Strikes provisions providing that:

- if the CAC employs a custodian of records for video recordings of interviews of children, the CAC is responsible for the custody of the recordings; and
- a video recording of an interview may be shared with other agencies under a written agreement.
Assessment of Children Entering the Conservatorship of DFPS—S.B. 125
by Senators West and Zaffirini—House Sponsor: Representative Naishat

Because a stable first placement is critical to the success of a child's time spent in the conservatorship of the state, interested parties assert that a thorough assessment of the needs of a child is imperative to determining appropriate mental health treatment and placement within the foster system. The parties contend that accurately assessing a child's needs as the child enters the state's care will improve ultimate outcomes for the child and minimize the expenditure of state resources on unnecessary testing and multiple placements. This bill:

Amends the Family Code to require that a child receive a developmentally appropriate comprehensive assessment not later than 45th day after the date the child enters the conservatorship of the Department of Family and Protective Services (DFPS).

Requires the assessment to include a screening for trauma and interviews with individuals who have knowledge of the child's needs.

Requires DFPS to develop guidelines regarding the contents of an assessment report.

Nonparent Appointed as a Child's Managing Conservator—S.B. 314
by Senator West—House Sponsor: Representative Burkett

Although Section 1711.8 of the Child Protective Services (CPS) handbook indicates that CPS should explain the effect of assuming permanent managing conservatorship (PMC) on eligibility for benefits, relatives regularly report that they were not aware of the consequences of assuming PMC. This bill:

Requires the Department of Family and Protective Services, in a suit in which the court appoints a nonparent as managing conservator of a child, to provide the nonparent with an explanation of the differences between appointment as a managing conservator of a child and adoption of a child, including informing the nonparent that:

- the nonparent's appointment conveys only the rights specified by the court order or applicable laws instead of the complete rights of a parent conveyed by adoption;
- a parent may be entitled to request visitation with the child or petition the court to appoint the parent as the child's managing conservator; and
- the nonparent's appointment as the child's managing conservator will not result in the eligibility of the nonparent and child for postadoption benefits.

Requires the court order appointing the nonparent as managing conservator to include provisions that address the authority of the nonparent to:

- authorize any other medical treatment that requires parental consent;
- obtain and maintain health insurance coverage for the child and automobile insurance coverage for the child, if appropriate;
- enroll the child in a day-care program or school, including prekindergarten;
- authorize the child to participate in school-related or extracurricular or social activities;
• authorize the child to obtain a learner’s permit, driver’s license, or state-issued identification card;
• authorize employment of the child;
• apply for and receive public benefits for or on behalf of the child; and
• obtain legal services for the child and execute contracts or other legal documents for the child.

Provides that the court must require evidence that the nonparent was informed of the rights and duties of a nonparent appointed as managing conservator of a child before rendering an order appointing the nonparent as managing conservator.

**Contracting Authority for Certain Children’s Advocacy Programs—S.B. 354**

_by Senator Nelson—House Sponsor: Representative Zerwas_

Interested parties contend that the state could better serve abused and neglected children by aligning children’s advocacy centers and court-appointed volunteer advocate programs with the state’s child welfare system. S.B. 354 seeks to address this issue by transferring administrative responsibility for these centers and programs to the Health and Human Services Commission (HHSC). This bill:

Transfers the powers and duties of the attorney general in regards to contract authority for children's advocacy centers and court-appointed volunteer advocate programs to HHSC.

Requires the Office of the Attorney General (OAG) to work in cooperation with and at the direction of HHSC to facilitate the transfer.

Establishes that a rule, form, policy, procedure, or decision of the attorney general that is related to a power or duty transferred under the bill's provisions continues in effect as a rule, form, policy, procedure, or decision of HHSC until superseded by an act of HHSC or the executive commissioner of HHSC.

Establishes that a contract negotiation or proceeding involving the attorney general that is related to a power or duty transferred under the bill's provisions is transferred without change in status to HHSC and that HHSC assumes, without a change in status, the position of the attorney general in a negotiation or proceeding relating to a power or duty transferred under the bill's provisions to which the attorney general is a party.

Establishes that all personal property, including records, in the custody of the attorney general related to a power or duty transferred under the bill's provisions is transferred to and becomes the property of HHSC.

Transfers all contracts, memoranda of understanding, and the rights of the attorney general related to a power or duty transferred under the bill's provisions to HHSC.

Transfers all money appropriated by the legislature to the attorney general related to a power or duty transferred under the bill's provisions, including money for providing administrative support, to HHSC.

Prohibits a contract transferred under the bill's provisions from being canceled by HHSC except as provided by the terms of the contract.
Specifies that the statewide organizations with which the Department of Family and Protective Services (DFPS) or HHSC must enter into an administrative contract for purposes of child advocacy centers and with which HHSC must enter into an administrative contract for purposes of court-appointed volunteer advocate programs must be charitable organizations exempted from federal income tax and designated as a supporting organization under the federal Internal Revenue Code of 1986.

Requires a statewide organization under contract with DFPS or HHSC for the purposes of child advocacy centers to provide funds administration to support contractual requirements for local children's advocacy center programs.

Clarifies that an administrative contract entered into by HHSC for a child advocacy center must provide that the statewide organization is prohibited from spending annually more than 12 percent of the annual amount appropriated to HHSC, for purposes of administrative contracts relating to children's advocacy centers, in the performance of duties concerning the contract.

**Dental Support for Child Subject to a Child Support Order—S.B. 550**

*by Senator Uresti—House Sponsor: Representative Rose*

Currently, children subject to child support orders only receive dental support if ordered by the court or specified by the parties involved. This bill:

Requires a court, in an order to pay child support or otherwise provide medical support, to require that dental insurance be provided for the child.

Makes conforming changes throughout the Family Code regarding child support orders and obligations.

Defines "reasonable cost" as it relates to a dental insurance coverage for which an obligor is responsible.

Requires a court in a suit affecting the parent-child relationship or in a proceeding under Chapter 159 (Uniform Interstate Family Support Act), Family Code, to render an order for the dental support of the child.

Expands provisions of the Family Code regarding the provision of medical support to include dental support, including certain notice to an employer, the duties of an obligor regarding the termination or lapse of insurance coverage, the withholding of wages to enforce a child support order, the statewide integrated system for child support, and the authority of a Title IV-D to enforce child support orders.

Expands provisions of the Government Code, Insurance Code, and Labor Code regarding the provision of medical support to children to include dental support or insurance.

**Digitized Signatures in Certain Family Law Proceedings—S.B. 813**

*by Senator Rodríguez—House Sponsor: Representative Lucio III*

The 83rd Legislature, Regular Session, 2013, enacted two statutes defining digitized signatures and permitting their use on pleadings, motions, and other papers under Title 5 (The Parent-Child Relationship
and the Suit Affecting the Parent-Child Relationship), Family Code. There are currently no provisions in the Family Code permitting the use of digitized signatures in suits under Titles 1 (The Marriage Relationship), 2 (Child in Relationship to the Family), and 4 (Protective Orders and Family Violence). This bill:

Amends Title 1, Title 2, and Title 4 of the Family Code to authorize the use of a digitized signature on any pleading or order.

Provides that a digitized signature may be applied only by, and must remain under the sole control of, the person whose signature is represented.

**Waivers of Citation in Certain Family Law Suits—S.B. 814**

*by Senator Rodríguez—House Sponsor: Representative Lucio III*

In divorce suits under Title 1 (The Marriage Relationship), Family Code, courts acquire jurisdiction over responding parties through service of citation and a copy of the pleadings upon the respondent by a neutral process server. In cases where the parties voluntarily acknowledge being named a party to a suit, the parties may file a Waiver of Citation (WOC) as prescribed by statute. The WOC must include the address of the respondent and the respondent's notarized signature. However, in cases under Title 2 (Child in Relation to the Family), and Title 5 (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship), there are no specified requirements for a WOC. This bill:

Provides that in a suit for dissolution of a marriage, the requirement that a waiver must be sworn before a notary public who is not an attorney in the suit does not apply if the party executing the waiver is incarcerated.

Prohibits a party executing the waiver signing the waiver using a digitized signature.

Authorizes a party to a suit regarding the removal of the disabilities of a minor or a change of name, or a suit affecting the parent-child relationship to waive the issuance or service of citation after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition.

Requires the waiver to contain the mailing address of the party executing the waiver.

Requires that the waiver be sworn before a notary public who is not an attorney in the suit, unless the party executing the waiver is incarcerated.

Provides that the Texas Rules of Civil Procedure do not apply to such a waiver.

**Consideration of Violence or Abuse in Appointing Managing Conservator—S.B. 817**

*by Senator Rodríguez—House Sponsor: Representative Senfronia Thompson*

The current sections of the Family Code dealing with issuance of protective orders in the case of abuse, specifically the definitions sections, refer to the applicant of the protective order as a "victim." There are
many times when an applicant for a protective order is not a victim of abuse, but may be a prosecutor or a parent or guardian who is applying for the protective order on behalf of a victim. In addition, some judges either will not or are reluctant to issue protective orders until the perpetrator has been convicted, believing that a person is not a "victim" until that happens. This bill:

Expands the definition of "dating violence" to include an act committed against applicant for a protective order.

Expands the definition of "family violence" to include additional acts of abuse as defined under the Family Code, such as encouraging a child to use a controlled substance or to engage in a sexual performance.

Requires a court, in appointing a sole or joint managing conservator, to consider whether, preceding the filing of the suit or during the pendency of the suit:

- a party was engaged in a history or pattern of family violence or child abuse; or
- a final protective order was rendered against a party.

Definition of School in Family Code—S.B. 821
by Senator Rodríguez—House Sponsor: Representative Lucio III

In several places in the Family Code, "school" is referenced as either "primary" or "secondary." It has been generally understood that "primary" means elementary school, but there is a need for clarity. The code allows a parent to return a child to school "at the time school resumes" or to pick the child up at the "time school recesses." Often, there are times that a child is returned to school at the "time school would regularly resume." Problems can arise when it is not clear which school calendar times are being followed, especially in situations where a child is in prekindergarten. Without a clear definition of "school," there can often be confusion and therefore disagreement between parents, which is not in the child's best interest. This bill:

Changes references to primary school throughout the Family Code to elementary school.

Provides that a reference to elementary school includes prekindergarten.

Information Regarding Abused or Neglected Children—S.B. 949
By Senators Uresti and Menéndez—House Sponsor: Representative Naisshtat

Recently enacted legislation required the Department of Family and Protective Services (DFPS) to release certain non-identifying information following certain child fatalities. Despite DFPS having released this data, child abuse advocates contend that hundreds of abuse-related and neglect-related child fatalities are not being publicly reported each year. This bill:

Specifies that, for purposes of the requirement that DFPS release certain information regarding a child abuse or neglect investigation relating to a child fatality after which DFPS determines that the child's death was caused by abuse or neglect, DFPS is required to release all investigation information not prohibited
from release under federal law and to include information on whether a child's death or near fatality was determined by DFPS to be attributable to abuse or neglect or resulted in a criminal investigation or the filing of criminal charges if known at the time the investigation is completed.

Makes the requirement to release the information applicable also to an investigation after which it is determined that a child's near fatality was caused by abuse or neglect.

Requires DFPS to publish an annual aggregated report using information compiled from each child fatality investigation for which DFPS made a finding regarding abuse or neglect, including cases in which DFPS determined that the fatality was not the result of abuse or neglect.

Requires the annual aggregated report to protect the identity of individuals involved and to contain the following information: the age and sex of the child and the county in which the fatality occurred; whether the state was the managing conservator of the child or whether the child resided with the child's parent, managing conservator, guardian, or other person entitled to the possession of the child at the time of the fatality; the relationship to the child of the individual alleged to have abused or neglected the child, if any; the number of any DFPS abuse or neglect investigations involving the child or the individual alleged to have abused or neglected the child during the two years preceding the date of the fatality and the results of the investigations; whether DFPS offered family-based safety services or conservatorship services to the child or family; the types of abuse and neglect alleged in the reported investigations, if any; and any trends identified in the investigations contained in the report.

Requires the annual aggregated report to accurately represent all abuse-related and neglect-related child fatalities in Texas and to aggregate the fatalities by investigative findings and case disposition.

Authorizes DFPS to release additional information in the annual aggregated report if the release of the information is not prohibited by state or federal law.

Requires DFPS, not later than March 1, 2016, to post the annual report on the DFPS website and otherwise make the report available to the public.

Authorizes the executive commissioner of the Health and Human Services Commission to adopt rules to implement provisions of the bill.

Requires DFPS, at least once every 10 years, to use the information reported under these provisions to provide guidance for possible DFPS policy changes.

**Youths Transitioning From Foster Care—S.B. 1117**

*by Senator Zaffirini—House Sponsor: Representative Naishtat*

The Department of Family and Protective Services (DFPS) is currently responsible for providing a youth in foster care assistance in transitioning to independent living after aging out of the system. There is concern that this transition planning does not provide adequate guidance on how to secure housing and that, without minimum standards regarding supportive housing planning, transitional living services can become ineffectual. Research indicates that without stable and secure housing, youths who age out of foster care...
are more likely to experience homelessness, which is not only a barrier to completing education or maintaining consistent employment but also puts youths at a greatest risk of being targeted for human trafficking and increases the likelihood of engaging in survival behaviors that can have lifelong consequences. This bill:

Requires DFPS to ensure that the transition plan provided to each youth 16 years of age or older under DFPS conservatorship include provisions to assist the youth in managing the youth’s housing needs after the youth leaves foster care.

Requires the provisions of the transition plan to identify the cost of housing in relation to the youth’s sources of income, including any benefits or rental assistance available to the youth; if the youth's housing goals include residing with family or friends, to state that DFPS has addressed with the youth certain logistical, emotional, and psychological factors regarding the arrangement; to inform the youth about emergency shelters and housing resources; to require DFPS to review a common rental application with the youth and ensure that the youth possesses all of the documentation required to obtain rental housing; and to identify any individuals who are able to serve as cosigners or references on applications for housing.

**Child Safety Check Alert List—S.B. 1406**

_by Senators Schwertner and Uresti—House Sponsor: Representative Dutton_

Recent statistics from the Department of Family and Protective Services (DFPS) indicate that over 10 percent of all confirmed child sexual abuse cases are not closed after investigation, but are instead referred to the agency's family-based support services division. These ongoing cases require continuous monitoring and support, as failure to do so could increase the likelihood that the child victim or the child’s siblings will be re-victimized by an abuser. Interested parties assert that if a child victim is moved from the address on record with DFPS and can no longer access the necessary services, the risk of harm increases.

The child safety check alert list (CSCAL) is a tool used by the Department of Public Safety of the State of Texas (DPS) and DFPS to locate a child who DFPS is unable to locate during an investigation into abuse or neglect. The use of this tool is currently limited to the investigation phase of a child abuse case. Expanding its use to include cases involving family-based support services and conservatorship ensures that vulnerable children are protected even after an investigation is completed. S.B. 1406 seeks to allow DFPS to fully utilize its resources in the pursuit of ensuring that Texas’ most vulnerable children stay safe. This bill:

Specifies that CSCAL created as part of the Texas Crime Information Center to help locate a child's family for purposes of investigating a report of child abuse or neglect is also created to help locate a child for purposes of such an investigation.

Expands the purposes of the alert list to include providing protective services to a family receiving family-based support services and providing protective services to the family of a child in the managing conservatorship of DFPS.

Clarifies those attorneys from whom DFPS may seek assistance when trying to locate a child or a child's family.
Specifies that an application filed by the attorney representing DFPS requesting a court to issue an ex parte order requiring the Texas Crime Information Center to place a child or members of a child's family on CSCAL must include a summary of, if applicable, the circumstances in a case involving a family receiving family-based support services or the family of a child in DFPS managing conservatorship that cause a child to be at a substantial risk of harm because the family cannot be located and the efforts of DFPS to locate the missing child or child's family.

Sets forth the determinations that trigger the court's duty to approve the application and order the appropriate law enforcement agency to notify the Texas Crime Information Center to place the child or the child's family, as applicable, on CSCAL.

Includes the name of any parent, managing conservator, or guardian of the child who cannot be located among the information required to be included on CSCAL.

**Normalcy Activities for Children in Conservatorship of the State—S.B. 1407**

_by Senator Schwertner et al.—House Sponsor: Representative Dukes_

Children and youth in foster care are often burdened with laws, policies, guidelines, and rules that effectively restrict their activities or require a cumbersome and lengthy approval process. Interested parties assert that it would be possible to ensure a greater amount of normalcy for foster children while they are in out-of-home care by establishing a reasonable and prudent parent standard under which substitute caregivers are allowed to approve or disapprove a child's participation in activities based on the caregiver's own assessment without prior approval of the Department of Family and Protective Services (DFPS). This bill:

Requires DFPS to use its best efforts to normalize the lives of children in the managing conservatorship of DFPS by allowing substitute caregivers, without prior approval from DFPS, to make decisions similar to those a parent would be entitled to make regarding a child's participation in age-appropriate normalcy activities.

Defines age-appropriate normalcy activity as an activity or experience that is generally accepted as suitable for a child's age or level of maturity or that is determined to be developmentally appropriate for a child based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for the age or age group and in which a child who is not in the conservatorship of the state is generally allowed to participate, including extracurricular activities, in-school and out-of-school social activities, cultural and enrichment activities, and employment opportunities.

Requires a substitute caregiver to exercise the standard of care of a reasonable and prudent parent.

Defines the standard of care of a reasonable and prudent parent as the standard of care that a parent of reasonable judgment, skill, and caution would exercise in addressing the health, safety, and welfare of a child while encouraging the emotional and developmental growth of the child, in determining whether to allow a child in the managing conservatorship of DFPS to participate in an activity.
Requires DFPS to adopt and implement policies promoting a substitute caregiver's ability to make decisions regarding age-appropriate normalcy activities and to identify and review any DFPS policy or procedure that may impede a substitute caregiver's ability to make such decisions.

Requires DFPS to require licensed child placing agency personnel, residential child care licensing staff, conservatorship caseworkers, and other persons as may be determined by DFPS to complete a course of training regarding the importance of a child’s participation in age-appropriate normalcy activities and the benefits of such activities to a child's well-being, mental health, and social, emotional, and developmental growth, and regarding substitute caregiver decision-making under the standard of care of a reasonable and prudent parent.

Grants a foster parent, other substitute caregiver, family relative, or other designated caregiver, or licensed child placing agency caring for a child in the managing conservatorship of DFPS immunity from liability for harm caused to the child resulting from the child’s participation in an age-appropriate normalcy activity approved by the caregiver if, in approving the child’s participation in the activity, the caregiver exercised the standard of care of a reasonable and prudent parent.

Establishes that a child placing agency is not subject to adverse action by DFPS, including contractual action or licensing or other regulatory action, arising out of the conduct of a foster parent who has exercised the standard of care of a reasonable and prudent parent.

Requires the court, at each permanency hearing and at each placement review hearing, to review DFPS's efforts to ensure that the child has regular, ongoing opportunities to engage in age-appropriate normalcy activities, including activities not listed in the child's service plan.

Background Checks for Certain Child-Care Providers—S.B. 1496

by Senator Uresti—House Sponsor: Representatives Naishtat and Peña

Current law relating to required background checks for certain child-care facilities, homes, and agencies is not in compliance with federal law, specifically in regard to owners and operators of a listed or registered family home. As these requirements are necessary to determine whether the provider is listed as a registered sex offender, interested parties contend that compliance is vital to ensure that the owners of these facilities are held to the same standard as other child-care facilities. S.B. 1496 seeks to maintain child safety by amending current law relating to background checks conducted for certain child-care providers. This bill:

Includes the director, owner, or operator of a listed or registered family home or a group day-care home among the persons required to submit a complete set of fingerprints of certain persons associated with the home as part of the background and criminal history check required for the regulation of certain facilities, homes, and agencies that provide child-care services.

Removes a provision exempting from that fingerprint requirement a program that is exempt from child-care facility or child-placing agency licensing requirements and instead exempts from the fingerprint requirement a family home that is subject to regulation by the Department of Family and Protective Services (DFPS) under provisions relating to the listing of relative child-care providers.
Clarifies that the required background or criminal history check to be conducted by DFPS before listing a relative child-care provider's home as a family home, in addition to searching the central database of sex offender registration prior to such listing, is the background or criminal history check required for a listed or registered family home as required by the bill's provisions.

Abuse, Neglect, and Exploitation Investigations—S.B. 1880
by Senator Zaffirini—House Sponsor: Representative Raymond

The state protects older Texans and individuals with disabilities through investigations of abuse, neglect, and exploitation conducted by the adult protective services program within the Department of Family and Protective Services (DFPS). The goal of these investigations is to alleviate and prevent future abuse, neglect, and exploitation. There is concern that the state's current system of investigation has gaps and inconsistencies that have developed as service delivery systems have evolved beyond statutory regulation, particularly in regard to investigations of services delivered through a managed care organization or its providers. S.B. 1880 seeks to ensure the state's compliance with federal requirements related to investigations of abuse, neglect, or exploitation for the health and welfare of recipients of home and community-based services. This bill:

Removes the exception for investigations of abuse in nursing homes, assisted living facilities, and similar facilities by DFPS, if a provider is alleged to have committed the abuse, neglect, or exploitation. Requires DFPS to investigate allegations of abuse, neglect, or exploitation of an individual receiving services from a provider who provides home and community-based services under a home and community-based services program, if the person alleged or suspected to have committed the abuse, neglect, or exploitation is a provider, even if the individual does not receive services under the waiver. Exempts these investigations from the requirements of investigations of home and community support services agencies.

Provides that if another state agency has authority to license a provider and investigate reports of abuse, neglect, or exploitation of an individual by that provider, DFPS is prohibited from investigating the report. Sets forth certain requirements for the provider investigations.

Requires DFPS to investigate reports of abuse, neglect, or exploitation of a child receiving services from an officer, employee, agent, contractor, or subcontractor of a home and community support services agency, if the party is or may be the person alleged to have committed the abuse, neglect, or exploitation. Provides that if the child is living in a residence owned, operated, or controlled by the provider who provides home and community-based services under a home and community-based services waiver program, DFPS is required to provide protective services to the child, including emergency protective services, if necessary.

Expands the authority of DFPS to investigate allegations of abuse, neglect, or exploitation.
Supported Decision-Making Agreements—S.B. 1881
by Senator Zaffirini et al.—House Sponsor: Representative Peña et al.

While guardianship sometimes may be necessary, a person should not be presumed to need a guardian simply because of advanced age or the presence of a physical, cognitive, or mental disability. An individual should be given the opportunity to avoid or limit guardianship through available alternatives. This bill:

Authorizes an adult with a disability to voluntarily, without undue influence or coercion, enter into a supported decision-making agreement with a supporter under which the adult with a disability authorizes the supporter, who also is authorized by the bill to exercise the authority granted by the agreement, to do any or all of the following: provide supported decision-making without making those decisions on behalf of the adult with a disability; assist the adult in accessing, collecting, and obtaining information that is relevant to a given life decision from any person; assist the adult with a disability in understanding such information; and assist the adult in communicating the adult's decisions to appropriate persons.

Defines "supported decision-making" as a process of supporting and accommodating an adult with a disability to enable the adult to make life decisions, including decisions related to where the adult wants to live, the services, supports, and medical care the adult wants to receive, whom the adult wants to live with, and where the adult wants to work, without impeding the self-determination of the adult.

Defines "supporter" as an adult who has entered into a supported decision-making agreement with an adult with a disability.

Establishes that the supported decision-making agreement extends until terminated by either party or by the terms of the agreement.

Establishes that the agreement also is terminated if the Department of Family and Protective Services (DFPS) finds that the adult with a disability has been abused, neglected, or exploited by the supporter or if the supporter is found criminally liable for such conduct.

Authorizes a supporter to assist the adult with a disability only in accessing, collecting, or obtaining information that is relevant to a decision authorized under the supported decision-making agreement and, if the supporter assists an adult with a disability in accessing, collecting, or obtaining personal information, including certain protected health information or educational records subject to federal law, requires the supporter to ensure that the information is kept privileged and confidential, as applicable, and is not subject to unauthorized access, use, or disclosure.

Specifies that the existence of an agreement does not preclude an adult with a disability from seeking personal information without the assistance of a supporter.

Requires that a supported decision-making agreement be signed voluntarily, without coercion or undue influence, by the adult with a disability and the supporter in the presence of two or more subscribing witnesses, who must be at least 14 years of age, or a notary public.

Makes an agreement valid only if it is substantially in the form set out in the bill.
Establishes that a person is not subject to criminal or civil liability and has not engaged in professional misconduct for an act or omission if the act or omission is done in good faith and in reliance on an agreement.

Requires a person who receives a copy of or is aware of the existence of an agreement and has cause to believe that the adult with a disability is being abused, neglected, or exploited by the supporter to report the alleged abuse, neglect, or exploitation to DFPS.

**Bill of Rights for Wards Under Guardianship—S.B. 1882**
by Senator Zaffirini—House Sponsor: Representative Senfronia Thompson

Although a person under guardianship often retains many legal and civil rights, depending on the court order imposing guardianship, such a person is not always informed of those rights, which can lead to a presumption that the person has no rights whatsoever. Concerned parties assert that there are few legal processes more restrictive of citizens in a free society than guardianship, making it important that people under guardianship know the rights they retain. S.B. 1882 seeks to provide that knowledge by means of a bill of rights for wards under guardianship. This bill:

Grants a ward under guardianship all the rights, benefits, responsibilities, and privileges granted by the constitution and laws of Texas and the United States, except where specifically limited by a court-ordered guardianship or where otherwise lawfully restricted.

Establishes that the ward has certain rights set forth.

**Central Registry of Child Abuse or Neglect Cases—S.B. 1889**
by Senators Zaffirini and Perry—House Sponsor: Representatives Burkett and Raymond

Recent legislation sought to remove from the central registry of child abuse or neglect cases a parent who relinquishes parental rights due to high costs associated with providing mental health services for the child. There is concern that the legislation did not go far enough in ensuring that these parents are not subject to additional adverse consequences due to the relinquishment. Concerned observers note, for instance, that being in the registry can impact the ability of a person to secure employment. S.B. 1889 seeks to prevent parents from being further stigmatized for making difficult health decisions regarding their children. This bill:

Requires, rather than authorizes, the executive commissioner of the Health and Human Services Commission (HHSC) to adopt certain rules regarding the central registry of reported cases of child abuse or neglect and to remove a requirement that those rules provide for cooperation with local child service agencies and cooperation with other states in exchanging reports to effect a national registration system.

Requires the executive commissioner of HHSC to adopt rules that prohibit the Department of Family and Protective Services (DFPS) from making a finding of abuse or neglect against a person in a case in which DFPS is named managing conservator of a child who has a severe emotional disturbance only because the
child's family is unable to obtain mental health services for the child and to establish guidelines for reviewing the records in the registry and removing the records of such cases.

Replaces a requirement that DFPS discuss with a person relinquishing custody of a child who suffers from a severe emotional disturbance in order to obtain mental health services for the child the option of seeking a court order for joint managing conservatorship of the child with DFPS before a person relinquishes custody of a child with a requirement that DFPS discuss that option with the child's parent or legal guardian before DFPS files a suit affecting the parent-child relationship requesting managing conservatorship of such a child.

Adds a temporary provision, set to expire September 1, 2019, requiring DFPS, not later than November 1 of each even-numbered year, to report to the legislature the following information: the number of children suffering from a severe emotional disturbance for whom DFPS has been appointed managing conservator in order to obtain mental health services for the child, the number of such children for whom DFPS has been appointed joint managing conservator, the number of such children who were diverted to community or residential mental health services through another agency, and the number of persons whose names were entered into the central registry of cases of child abuse and neglect only because DFPS was named managing conservator of such a child.

Repeals a provision relating to a study to develop alternatives to relinquishment of custody by parents solely to obtain mental health services for their children with severe emotional disturbances.

**Adult Day Services Facilities—S.B. 1999**

*by Senator Menéndez—House Sponsor: Representative Coleman*

Chapter 103 of the Human Resources Code is known as the Adult Day Care Act. Many believe that the term "adult day care" is archaic and does not honor the dignity and autonomy of elderly and disabled adults. Service providers contend that many elderly and disabled adult clients are less likely to attend an "adult day care" facility than an "adult day services" facility, and stress the importance of the elderly and adults with disabilities or impairments maintaining a sense of independence. This bill:

Amends the Government Code, Health and Safety Code, and Human Resources Code, to change references to "adult day care" to "adult day services."
Qualifications for a Coronal Polishing Certificate—H.B. 2849

by Representative Sheffield—Senate Sponsor: Senator Menéndez

Currently, a dental assistant who meets certain requirements may receive a certificate authorizing the assistant to remove stains and soft deposits such as plaque from the enamel of a tooth. One of the eligibility requirements for the certificate is the completion of a clinical and didactic education program. There is concern that the number of programs offering such education is too low. H.B. 2849 seeks to create more opportunity for a dental assistant to obtain such a certificate. This bill:

Requires an applicant, to qualify for a coronal polishing certificate, to have at least two years’ experience as a dental assistant and have successfully completed at least eight hours of clinical and didactic education in coronal polishing taken through a dental school, dental hygiene school, or dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the State Board of Dental Examiners.

Requires the State Board of Dental Examiners, as soon as practicable after the effective date of this bill, to adopt rules necessary to implement the bill.

Judicial Bypass for a Minor Seeking an Abortion—H.B. 3994

by Representative Morrison et al.—Senate Sponsor: Senator Perry et al.

Interested parties note that a parent, managing conservator, or guardian must be notified and give consent before a physician may perform an abortion on a minor, unless the minor obtains a judicial bypass by which a minor may obtain a court order authorizing the physician to perform an abortion without the notification to and consent of a parent, managing conservator, or guardian if the judge makes certain findings. The parties contend that the judicial bypass procedure needs to be reformed in several important ways. This bill:

Prohibits a physician from performing an abortion on a pregnant unemancipated minor unless the physician performing the abortion receives an order issued by a court authorizing the minor to consent to the abortion or the physician who is to perform the abortion concludes that a medical emergency exists, certifies in writing to Texas Department of State Health Services (DSHS) and in the patient’s medical record the medical indications supporting the physician's judgment that a medical emergency exists, and provides notice as required by Section 33.0022 (Medical Emergency Notification; Affidavit for Medical Record), Family Code, as added by this Act.

Requires a physician to use due diligence to determine that any woman on which the physician performs an abortion who claims to have reached the age of majority or to have had the disabilities of minority removed, has, in fact, reached the age of majority or has had the disabilities of minority removed and provides that "due diligence" includes requesting proof of identify and age or a copy of the court order removing disabilities of minority.

Requires the physician, if proof of identify and age cannot be provided, to provide information on how to obtain proof of identity and age.

Provides that, if the woman is subsequently unable to obtain proof of identity and age and the physician chooses to perform the abortion, the physician shall document that proof of identity and age was not
obtained and report to DSHS that proof of identity and age was not obtained for the women on whom the abortion was performed.

Requires DSHS to report annually to the legislature regarding the number of abortions performed without proof of identity and age.

Requires a physician who is to perform an abortion after having determined that a medical emergency exists and that there is insufficient time to provide parental notice or consent to make a reasonable effort to inform, in person or by telephone, the parent, managing conservator, or guardian of the unemancipated minor within 24 hours after the time a medical emergency abortion is performed on the minor of the performance of the abortion and the basis for the physician's determination that a medical emergency existed that required the performance of a medical emergency abortion without providing parent notice and consent.

Requires a physician who performs a medical emergency abortion on a minor, not later than 48 hours after the abortion is performed, to send written notice of the medical emergency and the ability of the parent, managing conservator, or guardian to contact the physician for more information.

Requires a physician who performs a medical emergency abortion on a minor to execute for inclusion in the medical record of the minor an affidavit that explains the specific medical emergency that necessitated the immediate abortion.

Authorizes a pregnant minor to file an application for a court order authorizing the minor to consent to the performance of an abortion without notification to and consent of a parent, managing conservator, or guardian. Requires that the application be filed in a court in the minor's county of residence.

Provides that if the minor's parent, managing conservator, or guardian is a presiding judge of a court in the minor's county of residence, the application may be filed in a court located in a contiguous county or in a court located in the county where the minor intends to obtain the abortion.

Provides that if the minor's county of residence has a population of less than 10,000, the application may be filed in a court located in the minor's county of residence; in a contiguous county; or in the county in which the facility at which the minor intends to obtain the abortion is located.

Requires that the application be made under oath; include a statement that the minor wishes to have an abortion without the notification to and consent of a parent, managing conservator, or guardian; a statement about the minor's current residence, including the minor's physical address, mailing address, and telephone number; and be accompanied by the sworn statement of the minor's attorney, if the attorney has retained an attorney to assist the minor with filing the application.

Requires the court to appoint a guardian ad litem for the minor who shall represent the best interest of the minor. Prohibits the guardian ad litem from also serving as the minor's attorney ad litem.

Deletes the requirement that the court enter judgment on the application immediately after the hearing is concluded.
Requires the pregnant minor to appear before the court in person and prohibits the minor from appearing using videoconferencing, telephone conferencing, or other remote electronic means.

Requires the court to rule on an application submitted under this section and to issue written findings of fact and conclusions of law not later than 5 p.m. on the fifth, rather than second, business day after the date the application is filed with the court and requires the court, on request by the minor, to grant an extension of the period.

Requires the court clerk to issue to the physician who is to perform the abortion a certificate showing that the court granted the application if the court authorizes the minor to consent to the abortion.

Requires that proceedings relating to an application for a court order authorizing the minor to consent to the performance of an abortion be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly, regardless of whether the minor is granted an extension.

Requires the court to determine by clear and convincing evidence, rather than by a preponderance of the evidence, whether the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notification to or consent of a parent, managing conservator, or guardian.

Provides that in making the determination regarding the minor's maturity, the court may: consider all relevant factors, including the minor's age, life experiences, and steps taken by the minor to explore her options and the consequences of those options; inquire as to the minor's reasons for seeking an abortion; consider the degree to which the minor is informed about the state-published information materials described by Chapter 171 (Abortion), Health and Safety Code; and require that the minor be evaluated by a mental health counselor.

Provides that, in determining whether the notification and the attempt to obtain consent would not be in the best interest of the minor, the court may inquire as to: the minor's reasons for not wanting to notify and obtain consent from a parent, managing conservator, or guardian; whether notification or the attempt to obtain consent may lead to physical or sexual abuse; whether the pregnancy was the result of sexual abuse by a parent, managing conservator, or guardian; and any history of physical or sexual abuse from a parent, managing conservator, or guardian.

Requires a court to enter an order authorizing a minor to consent to the performance of the abortion without notification to and consent of a parent, managing conservator, or guardian and to execute the required forms if the court finds by clear and convincing evidence that the minor is mature and sufficiently well informed to make the decision to have an abortion performed without such notification or that the notification and attempt to obtain consent would not be in the best interest of the minor.

Requires that the court proceedings be conducted in a manner that protects the confidentiality of the identity of the minor.

Requires court clerks, at intervals prescribed by the Office of Court Administration of the Texas Judicial System, to submit a report to that office that includes: the case number and style; the applicant's county of residence; the court of appeals district in which the proceeding occurred; the date of the filing; the date of disposition; and the disposition of the case. Requires the Office of Court Administration to annually compile
and publish a report aggregating the data received and requires that the report protect the anonymity of all minors and judges that are the subject of the report.

Prohibits a minor who has filed an application from withdrawing or otherwise non-suiting her application without the permission of the court.

Authorizes a minor whose application is denied to subsequently submit an application to the court that denied the application if the minor shows that there has been a material change in circumstances since the time the court denied the application.

Requires an attorney retained by the minor to assist her in filing an application to fully inform himself or herself of the minor’s prior application history, including the representations made by the minor in the application regarding her address, proper venue in the county in which the application is filed, and whether a prior application has been filed and initiated.

Requires the attorney representing the minor to attest to the truth of the minor’s claims regarding the venue and prior applications in a sworn statement if an attorney assists the minor in the application process in any way, with or without payment.

Authorizes a court of appeals to publish an opinion relating to a ruling if the opinion is written in a way to preserve the confidentiality of the identity of the pregnant minor.

Requires the clerk of a court to retain the records for each case before the court in accordance with rules for civil cases and grant access to the records to the minor who is the subject of the proceeding.

Requires a physician or physician's agent, if a minor claims to have been physically or sexually abused or a physician or physician's agent has reason to believe that a minor has been physically or sexually abused, to immediately report the suspected abuse and the name of the abuser to the Department of Family and Protective Services (DFPS) and to a local law enforcement agency. Requires the local law enforcement agency to respond and write a report within 24 hours of being notified of the alleged abuse and requires that the report be made regardless of whether the local law enforcement agency knows or suspects that a report about the abuse may have previously been made.

Requires the appropriate local law enforcement agency and DFPS to investigate suspected abuse reported under this section and, if warranted, to refer the case to the appropriate prosecuting authority.

Authorizes a law enforcement officer or appropriate agent from DFPS to take emergency possession of the minor without a court order to protect the health and safety of the minor, when the local law enforcement agency responds to the report of physical or sexual abuse.

Requires a judge or justice who, as a result of court proceedings conducted under Section 33.003 (Judicial Approval) or 33.004 (Appeal), Health and Human Safety Code, has reason to believe that a minor has been or may be physically or sexually abused, notwithstanding any other law, to immediately report the suspected abuse and the name of the abuser to DFPS and to a local law enforcement agency; and refer the minor to DFPS for services or intervention that may be in the best interest of the minor. Requires the appropriate local law enforcement agency and DFPS to investigate suspected abuse reported under this section and, if warranted, to refer the case to the appropriate prosecuting authority.
Provides a civil penalty for any person who is found to have intentionally, knowingly, recklessly, or with gross negligence violated Chapter 33 (Notice of Abortion), Family Code.

Provides that a civil penalty may not be assessed against a minor on whom an abortion is performed or attempted or a judge or justice hearing an application.

Provides that it is not a defense that the minor gave informed and voluntary consent.

Provides that an unemancipated minor does not have the capacity to consent to any action that violates the chapter.

**Regulation of Electronic Cigarettes—S.B. 97**

*by Senator Hinojosa et al.—House Sponsor: Representative Alvarado et al.*

Concerned parties note that there is insufficient regulation of electronic cigarettes (e-cigarettes) in Texas and that e-cigarettes are being sold to minors in Texas. The parties further note that many states have already prohibited the sale of e-cigarettes to minors and point to Centers for Disease Control and Prevention studies showing that an increasing number of minors, even minors who have never smoked a cigarette, are using e-cigarettes. The parties contend that the amounts of nicotine and other chemical substances that may be in an e-cigarette can vary among different products and can have negative effects on brain development from the prenatal period into adolescence. This bill:

Includes e-cigarettes among the products to which provisions regulating the sale and distribution of cigarettes and tobacco products apply, including provisions establishing prohibited conduct that constitutes an offense.

Defines "e-cigarette" as 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, 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 includes a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

Specifies that the term "e-cigarette" does not include a prescription medical device unrelated to the cessation of smoking.

Prohibits a person from selling, giving, or causing to be sold or given an e-cigarette to someone who is younger than 27 years of age unless the person to whom the e-cigarette was sold or given presents an apparently valid proof of identification.

Changes the statutorily prescribed language of the warning sign containing information regarding the prohibited purchase of tobacco products by or sale or provision of tobacco products to a minor that is required to be posted by each person who sells such products to include reference to the prohibited purchase of e-cigarettes by or sale or provision of e-cigarettes to a minor and requires the comptroller of public accounts to develop such a sign and make the sign available to the public not later than September 15, 2015.
Prohibits a person, including a permit holder, from accepting or redeeming, offering to accept or redeem, or hiring a person to accept or redeem a coupon or other item that the recipient may use to receive a free or discounted cigarette, e-cigarette, or tobacco product or a sample cigarette, e-cigarette, or tobacco product if the recipient is younger than 18 years of age and prohibits such a coupon from being redeemed through mail or courier delivery.

Prohibits a person from selling or causing to be sold a container that contains liquid with nicotine and that is an accessory for an e-cigarette unless the container satisfies federal child-resistant effectiveness standards or the container is a cartridge that is prefilled and sealed by the manufacturer and is not intended to be opened by a consumer.

Specifies that if the federal government adopts standards for the packaging of such a liquid nicotine container and a person complies with those standards, that person is considered to be in compliance with the bill's provisions.

Requires the Department of State Health Services (DSHS), not later than January 5th of each odd-numbered year, to report to the governor, lieutenant governor, and speaker of the house of representatives on the status of the use of e-cigarettes in Texas and sets out the requirements of the report and authorizes DSHS to include the report on e-cigarettes with a similar report for cigarettes or tobacco products required by law.

Includes e-cigarettes among the products to which provisions relating to the prohibited possession, purchase, consumption, or receipt of cigarettes or tobacco products by minors apply, including provisions establishing prohibited conduct that constitutes an offense.

Includes the reduction of e-cigarette use by minors among the goals of the DSHS tobacco use public awareness campaign and as a required program component for a youth group to receive support through a related grant program.

Establishes that a person is considered to have complied with provisions relating to the disclosure of ingredients in cigarettes and tobacco products if the person complies with provisions of the Federal Food, Drug, and Cosmetic Act regarding tobacco products and rules adopted under those federal provisions.

Includes e-cigarettes among the products to which provisions regulating the delivery sales of cigarettes apply, including provisions establishing prohibited conduct that constitutes an offense and provisions applicable to forfeiture of e-cigarettes sold or that a person attempted to sell in a noncompliant delivery sale and includes the enforcement of such provisions as a purpose for which the comptroller may make block grants to counties and municipalities for use by local law enforcement agencies in a manner that can reasonably be expected to reduce the extent to which cigarettes, e-cigarettes, and tobacco products are sold and distributed, including by delivery sale, to persons who are younger than 18 years of age.

Requires a person taking a delivery sale order of e-cigarettes to comply with age verification, disclosure, shipping, and registration and reporting requirements and to comply with other state law that generally applies to sales of e-cigarettes that occur entirely within Texas.

Prohibits a person from mailing or shipping e-cigarettes in connection with a delivery sale order unless before accepting a delivery sale order the person verifies that the prospective purchaser is at least 18 years
of age through a commercially available database or aggregate of databases that is regularly used for the purpose of age and identity verification and requires the person, after the order is accepted, to use a method of mailing or shipping that requires an adult signature.

Sets out the manner in which a retailer in Texas that otherwise complies with applicable laws relating to retail sales and primarily sells e-cigarettes may comply with the age verification requirements for delivery sale orders.

Requires a delivery sale of an e-cigarette to include a prominent and clearly legible statement that e-cigarette sales to individuals younger than 18 years of age are illegal under state law and that e-cigarette sales are restricted to individuals who provide verifiable proof of age.

Requires a person who mails or ships e-cigarettes in connection with a delivery sale order to include as part of the shipping documents a clear and conspicuous specified statement regarding the prohibited shipping of e-cigarettes to individuals younger than 18 years of age and the payment of required taxes.

Exempts a person from the requirement to file with the comptroller each month a memorandum or a copy of an invoice in connection with a delivery sale of cigarettes or e-cigarettes if, in the two years preceding the date the report is due, the person has not violated provisions regarding the delivery sale of cigarettes and e-cigarettes and has not been reported to the comptroller as having violated provisions regarding the distribution of cigarettes, e-cigarettes, or tobacco products.

Requires a school district to state in the district's student handbook and on the district's website, if the district has a website, whether the school district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, among other products, by students and others on school campuses or at school-sponsored or school-related activities.

Amends the Penal Code to expand the conduct that constitutes the Class C misdemeanor offense involving possession of a burning tobacco product or smoking a tobacco product in a facility of a public primary or secondary school or an elevator, enclosed theater or movie house, library, museum, hospital, transit system bus, intrastate bus, plane, or train which is a public place to include operating an e-cigarette in those same places and applies the exception to such an offense for a person engaging in prohibited conduct in an area designated for the conduct to the operation of an e-cigarette in an area so designated.
Continuation and Functions of the Health and Human Services Commission—S.B. 200
by Senator Nelson et al.—House Sponsor: Representative Price et al.

The Health and Human Services Commission (HHSC) provides oversight and support for agencies in the health and human services system, administers the state’s Medicaid and other public benefit programs, sets policies, defines covered benefits, and determines client eligibility for major programs. HHSC is subject to the Texas Sunset Act and will be abolished on September 1, 2015, unless continued by the legislature. This bill:

Consolidates functions of the health and human services system in HHSC in two phases. Provides that initial transfers, termed Phase One, occur on or after the executive commissioner of HHSC submits the required transition plan by March 1, 2016, and not later than September 1, 2016; and that final transfers, termed Phase Two, occur on or after September 1, 2016, and not later than September 1, 2017. Specifies that transfer and consolidation of administrative support services occur as soon as practicable after the executive commissioner of HHSC submits the transition plan and not later than September 1, 2017, in accordance with dates specified in the transition plan.

Specifies that all functions, including any remaining administrative support services functions, of the following state agencies and entities transfer to HHSC in Phase One: the Department of Assistive and Rehabilitative Services (DARS), the Health and Human Services Council, the Aging and Disability Services Council, the Assistive and Rehabilitative Services Council, the Family and Protective Services Council, the State Health Services Council, the Office for the Prevention of Developmental Disabilities, and the Texas Council on Autism and Pervasive Developmental Disorders. Abolishes these state agencies and entities in Phase One after all of their functions have been transferred.

Establishes that all client services of the health and human services system are transferred to HHSC in Phase One, specifically those of the Department of Aging and Disability Services (DADS), the Department of Family and Protective Services (DFPS), and the Department of State Health Services (DSHS).

Requires that all functions of the health and human services system related to prevention and early intervention services, including the Nurse-Family Partnership Competitive Grant Program, transfer to DFPS in Phase One.

Sets out Phase Two transfers. Establishes that all functions of DADS that remained with the agency after the Phase One transfer of its client services functions to HHSC or a transfer of its administrative support services functions transfer to HHSC in Phase Two. Abolishes DADS in Phase Two on the date specified in the required transition plan, to occur after all its functions have been transferred to HHSC.

Sets out requirements for the transfer and consolidation of administrative support services functions.

Maintains DFPS and DSHS as separate agencies to perform stated functions.

Exempts from transfer the public health functions of DSHS, including health care data collection and maintenance of the Texas Health Care Information Collection program.

Establishes the Health and Human Services Transition Legislative Oversight Committee. Requires the committee to facilitate the transfer and consolidation of administrative support services functions with
minimal negative effect on the delivery of services. Requires the committee to submit a report to the governor, lieutenant governor, speaker of the house, and legislature by December 1 of each even-numbered year.

Requires the executive commissioner of HHSC, not later than September 1, 2018, to conduct a study and separately submit a report and recommendation to the transition legislative oversight committee regarding the need to continue DFPS and DSHS as agencies.

Requires that the transfers to HHSC be accomplished according to a transition plan developed by the executive commissioner of HHSC that ensures the transfers and provision of health and human services are accomplished in a careful and deliberate manner. Sets out requirements for the transition plan.

Requires the executive commissioner of HHSC to hold public hearings in various locations throughout the state and solicit and consider input from stakeholders in developing the transition plan.

Requires the executive commissioner of HHSC to submit the transition plan to the transition legislative oversight committee, the governor, and the Legislative Budget Board (LBB) by March 1, 2016, and requires the committee to comment on and make recommendations to the executive commissioner regarding concerns or adjustments that the committee deems appropriate. Provides that the executive commissioner of HHSC may not finalize the transition plan until the executive commissioner has reviewed and considered the comments and recommendations of the committee.

Requires the Sunset Advisory Commission to conduct a limited-scope review of HHSC during the fiscal biennium ending August 31, 2023.

Establishes the Health and Human Services Commission Executive Council.

Requires the executive commissioner of HHSC to establish divisions within HHSC and along functional lines.

Requires the executive commissioner of HHSC to establish the Office of Policy and Performance as an executive-level office to coordinate policy and performance efforts across the health and human services system.


Continues HHSC for 12 years.

Requires HHSC to operate a consolidated internal audit program for HHSC and each health and human services agency.

Requires HHSC to establish a process to ensure that system websites are developed and maintained according to standard criteria for uniformity, efficiency, and technical capabilities.
Moves provisions related to the office of ombudsman to a new section in the Government Code and requires the executive commissioner of HHSC to establish the office of ombudsman with authority and responsibility for the health and human services system.

Requires HHSC to establish a process to ensure that all system hotlines and call centers are necessary and appropriate.

Repeals unnecessary reporting requirements.

Requires HHSC to regularly evaluate whether data submitted by managed care organizations (MCOs) continues to serve a useful purpose and whether additional data is needed to oversee the contracts or evaluate the effectiveness of Medicaid.

Requires the Office of the Inspector General (OIG) to consult with the executive commissioner of HHSC regarding the adoption of rules defining OIG’s role, jurisdiction, and the frequency of audits of MCOs.

Requires OIG to coordinate all audit and oversight activities with HHSC to minimize duplication.

Requires HHSC to streamline the Medicaid provider enrollment and credentialing processes and to establish a centralized Internet portal through which providers can enroll in the program and authorizes HHSC to create a single, consolidated Medicaid provider enrollment and credentialing process.

Requires OIG and each licensing authority that requires the submission of fingerprints for a criminal history record information check of a health care professional enter into a memorandum of understanding.

Requires OIG, after seeking public input, to establish and the executive commissioner of HHSC to adopt by rule criminal history guidelines for the evaluation of criminal history information for providers or potential providers.

Requires HHSC to develop and implement a comprehensive, coordinated operational plan to ensure a consistent approach across major initiatives of the health and human services system for improving the quality of healthcare.

Defines "behavioral health services" and requires HHSC, in monitoring MCOs, to ensure that MCOs fully integrate recipients' behavioral health services into recipients' primary care coordination.

Requires HHSC to develop and implement a statewide effort to assist Medicaid recipients who receive Medicaid services through managed care with maintaining Medicaid eligibility and avoiding lapses in coverage.

Requires HHSC to develop a pilot project to increase the use and effectiveness of incentive-based provider payments by MCOs providing services under the Medicaid managed care program.

Abolishes certain advisory committees.

Provides that the Children's Policy Council and the Interagency Task Force on Ensuring Appropriate Care Settings for Persons with Disabilities expire September 1, 2017.
Provides that the Intellectual and Developmental Disability System Redesign Committee and the STAR Kids managed care advisory committee expire on the first anniversary after HHSC completes implementation of the STAR Kids Medicaid managed care program.

Requires the executive commissioner of HHSC to establish and maintain advisory committees across all major areas of the health and human services system and sets out the issue areas to be covered. Requires advisory committees to report recommendations to the executive commissioner at an executive council meeting and submit a written report with any policy recommendations to the legislature.

Abolishes the Pharmaceutical and Therapeutics Committee and transfers its functions to the Drug Utilization Review Board. Requires the board, to the extent feasible, to review all drug classes included in the preferred drug lists at least once every 12 months. Requires HHSC to publicly disclose, immediately after the board's deliberations conclude, each specific drug recommended for or against preferred drug list status for each drug class and post the disclosure on its website not later than 10 business days after board deliberations conclude.

Transfer of Regulatory Programs—S.B. 202

by Senator Nelson et al.—House Sponsor: Representative Price et al.

The Department of State Health Services (DSHS) has the broad mission to improve the health and well-being of Texans. This bill:

Discontinues 10 regulatory programs: bottled and vended water, certified food handler certification providers, contact lens dispensers, dyslexia therapists and practitioners, opticians, personal emergency response systems, bedding, indoor air quality in state buildings, rendering, and tanning bed facilities.

Transfers 12 occupational licensing programs from DSHS to the Texas Department of Licensing and Regulation (TDLR): athletic trainers, dieticians, fitters and dispensers of hearing instruments, midwives, orthotists and prosthetists, speech-language pathologists and audiologists, code enforcement officers, laser hair removal, massage therapists, mold assessors and remediators, offender education providers, and sanitarians.

Transfers four occupational licensing programs from DSHS to the Texas Medical Board (TMB): respiratory care practitioners, medical radiologic technologists, medical physicists, and perfusionists.

Ensures that certain health-related boards transferring from DSHS to TDLR retain a role to propose rules relating to standards of care and scope of practice for their professions.

Updates required language for signs that must be posted at tanning facilities to direct consumers to contact local law enforcement or health authorities if a violation is suspected.

Ensures that the Texas Board of Nursing and the Texas Physician Assistant Board can set training and education standards for nurses and physician assistants who perform radiologic procedures and specifies that TMB will assume the current authority of the executive commissioner of HHSC to identify dangerous or hazardous radiologic procedures.
Requires TDLR to submit detailed status reports on how the occupational license transfers are progressing
and ensure that affected professions have input into their respective reports.

Continuation of the Texas Health Services Authority—S.B. 203

by Senator Nelson et al.—House Sponsor: Representative Raymond et al.

The 80th Legislature created the Texas Health Services Authority (THSA) in 2007 as a public nonprofit
 corporation to help promote use of electronic health records and health information exchanges (HIEs) in
 Texas. HIEs are the underlying information technology (IT) networks that allow healthcare providers like
 hospitals and physicians to share electronic health records quickly across distances. THSA provides a
 variety of services to local HIEs and other entities for fees that it charges, including a statutory program for
certifying that organizations and persons working with protected health records comply with privacy and
security standards adopted in rule by the Health and Human Services Commission (HHSC).

THSA is subject to the Texas Sunset Act and was set to be abolished on September 1, 2015, unless
continued by the legislature. The Sunset Advisory Commission concluded that THSA needed six additional
years of operation as a statutory entity to prepare it for transition to a private nonprofit corporation so that it
could further develop revenue-producing services. This bill:

Makes changes necessary to remove THSA from statute as of September 1, 2021.

Amends the Health and Safety Code to remove the current THSA sunset date of September 1, 2015, and
deletes the language allowing the governor to order the dissolution of THSA.

Amends the Government Code to eliminate, as of September 1, 2021, the requirement that the Electronic
Health Information Exchange System Advisory Committee include at least one representative of THSA, and
adds the requirement that, on and after that date, the advisory committee include at least one
representative of the private nonprofit organization with relevant knowledge and experience in establishing
statewide HIE capabilities.

Eliminates, as of September 1, 2021, the requirement that the advisory committee collaborate with THSA to
ensure the interoperability of HIE systems.

Removes, as of September 1, 2021, THSA's coordination and consultation role in matters related to certain
federal audits or in seeking federal funds for enforcing Chapter 181, Health and Safety Code, which
addresses medical records privacy issues.

Amends the Health and Safety Code to add language that provides for continuing beyond September 1,
2021, the program for certifying past compliance with privacy and security standards for the electronic
sharing of protected health information adopted by HHSC.

Specifies that the privacy and security standards for the electronic sharing of protected health information in
effect on that date continue until amended by rule of HHSC, and requires HHSC, in amending those
standards, to seek the assistance of a private nonprofit organization with relevant knowledge and
experience in establishing statewide HIE capabilities and specifies requirements in designing those
standards.
Requires HHSC to designate a private nonprofit organization with relevant knowledge and experience in establishing statewide HIE capabilities to establish a process for the organization to certify past compliance with the standards by covered entities; requires HHSC to establish the process or designate another entity with relevant knowledge to establish the process in the absence of such an organization; and requires the organization or entity establishing the process to publish the adopted standards on its website.

Requires HHSC to ensure that any fee charged for the certification process by the designated private nonprofit organization or entity, including a person acting on behalf of a designated organization or entity, is reasonable.

Provides that HHSC may revoke the designation of the private nonprofit organization or entity to establish or offer the certification process for good cause.

Amends the Health and Safety Code to change the composition of the THSA board by requiring the ex officio nonvoting members currently representing the Department of State Health Services to represent health and human services agencies as state agency data resources. Provides a definition of health and human services agencies.

Requires the governor to appoint as a voting board member one person representing Texas local health information exchanges to the board, thus increasing the number of board members from 11 to 12.

Continuation of the Department of Family and Protective Services—S.B. 206
by Senator Schwertner et al.—House Sponsor: Representative Burkett et al.

The primary function of the Department of Family and Protective Services (DFPS) is to protect children and vulnerable adults by investigating allegations of abuse and neglect perpetrated by a caregiver. DFPS provides services to families and individuals and places abused or neglected children with relatives or in foster care when they cannot remain safely in their homes. DFPS also regulates child care centers and 24-hour residential child care facilities to ensure minimum standards of health and safety for children. DFPS is subject to abolishment on September 1, 2015, unless continued by the legislature.

During the sunset review process, the Sunset Advisory Commission directed DFPS to propose statutory changes needed to implement the goals of CPS Transformation, an ongoing effort to improve the management and processes of the agency's Child Protective Services (CPS) program using recommendations from a privately contracted operational assessment and from the Sunset Advisory Commission. This bill:

Continues DFPS for 12 years, until September 1, 2027.

Provides DFPS with additional flexibility to reduce workload and make various processes more efficient by: changing the time requirement for DFPS to ensure that a parent who is otherwise entitled to possession of a child has an opportunity to visit the child not later than the fifth day, instead of the third day, after the date DFPS is named temporary managing conservator of the child; changing statutes governing preparation and content of and access to the health, social, educational, and genetic history report governing preparation, access, and content; providing a good-cause exception for DFPS to extend the required 45-day deadline for completing an administrative review of the findings of a child abuse or neglect investigation of a person.
alleged to have abused or neglected a child; eliminating specified casework documentation and management requirements set out in statute while retaining the requirement that DFPS identify critical investigation actions affecting child safety, requiring caseworkers to document those actions in a child's case file not later than the day after the action occurs; limiting the duty of DFPS to provide a school investigation report to various entities specified in statute only upon request; and specifying that an interview with a child in which allegations of the current investigation are discussed must be audiotaped or videotaped, with certain exceptions.

Modifies various notice requirements, statutes prescribing specific organizational structure and staffing requirements, and certain court procedures.

Modifies statutes regarding permanency hearings and permanency progress reports before and after a final order.

Makes several changes related to safety, permanency, and well-being of children involved in CPS cases, such as: providing that a student enrolled in public school before entering DFPS conservatorship and placed in a residence outside the school's attendance area may continue to attend the school regardless of whether the student remains in conservatorship; expanding the purposes for which a school district is required to excuse a student from attending school to include an activity required under a child's service plan, as determined and documented by DFPS, if the child is in DFPS conservatorship; requiring DFPS to complete a background a criminal history check and a preliminary evaluation of a relative or other designated caregiver's home before placing a child with the caregiver; and providing that, among the factors the court shall consider in determining whether DFPS should be appointed as managing conservator without terminating parental rights, is whether a child has continuously expressed a strong desire against being adopted.

Reduces duplication of state and federal law and conforms certain state laws with federal law.

Requires CPS to develop and implement an annual business plan for CPS to prioritize the agency's activities and resources to improve CPS. Requires DFPS to coordinate with regional staff in developing the annual business plan. Requires DFPS to submit the annual business plan by October 1 of each year to the governor, lieutenant governor, speaker of the house, and chairs of the standing committees of the senate and house having primary jurisdiction over child protection issues.

Requires DFPS to develop and implement a 5-year strategic plan for prevention and early intervention services and specifies requirements for what the plan must do. Requires that by September 1 of the last fiscal year in the 5-year period, DFPS must issue a new strategic plan for the next five fiscal years.

Requires DFPS to develop and maintain an implementation plan for foster care redesign, sets out the required elements of the plan, and requires DFPS to annually update the implementation plan and post it on the DFPS website.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) by rule to adopt a general enforcement policy that describes the DFPS approach to enforcement of child care licensing laws and specifies the required contents of the policy. Requires DFPS to develop and implement a methodology for determining the appropriate disciplinary action to take against a person who violates...
child care licensing law or agency rule. Specifies the required contents of the methodology and requires DFPS make this methodology available to the public.

Authorizes DFPS to impose an administrative penalty without first imposing a nonmonetary administrative sanction for violating a high-risk child care licensing minimum standard, as defined by DFPS.

Authorizes DFPS, after notice and opportunity for a hearing, to issue a cease-and-desist order to a person who is not licensed, certified, registered, or listed and who is operating a child care facility or family home to prohibit the person from operating the facility or home after notice and opportunity for a hearing. Authorizes DFPS to impose an administrative penalty for violation of a cease-and-desist order.

Removes child care regulatory fee amounts from statute and instead requires the executive commissioner of HHSC to set fees by rule.

Requires DFPS to implement a renewal process for child care licenses, certifications, and registrations and adds language regarding the expiration of licenses, certifications, and registrations.

Requires the executive commissioner of HHSC to adopt rules regarding the purpose, structure, and use of advisory committees by DFPS.

**HHSC Office of Inspector General—S.B. 207**

*by Senator Hinojosa et al.—House Sponsor: Representatives Larry Gonzales and Raymond*

The Health and Human Services Commission (HHSC) Office of Inspector General (OIG) was created by H.B. 2292 in 2003 to prevent, detect, and investigate fraud, waste, and abuse and other allegations of wrongdoing in the health and human services system. In fiscal year 2014, OIG had 774 staff and operated on a budget of $48.9 million, a growth of nearly 30 percent since 2011. The Sunset Advisory Commission found deep management and due process concerns with OIG, particularly in OIG's efforts to detect and deter Medicaid fraud, waste, and abuse. OIG's investigative processes lack structure, guidelines, and performance measures to ensure consistent and fair results. Poor communication and a lack of transparency give a perception that OIG makes up rules as it goes. These significant concerns and vague accountability between the inspector general, the governor, who makes the appointment, and the executive commissioner of HHSC, who administratively oversees the office, demand serious attention to set this office right so it can appropriately ensure the integrity of programs in the health and human services system. This bill:

Redefines "fraud" by removing references to definitions of fraud in other applicable federal and state law and providing that the definition does not include unintentional technical, clerical, or administrative errors.

Requires OIG to work in consultation with the executive commissioner of HHSC to adopt rules necessary to implement a power or duty of OIG related to OIG operations.

Amends grants of rulemaking authority and references to existing rulemaking authority throughout the bill to explicitly require the executive commissioner of HHSC to consult with OIG.
Provides that the executive commissioner of HHSC is responsible for performing all administrative support services necessary to operate OIG in the same manner as for the health and human services system and lists those support services functions.

Requires HHSC's internal audit division to regularly audit OIG as part of HHSC's internal audit program and include OIG in HHSC's risk assessments.

Requires OIG to closely coordinate with the executive commissioner and program staff of HHSC programs that OIG oversees in the prevention of fraud, waste, and abuse and the enforcement of state law relating to the provision of health and human services, including audits, utilization reviews, provider education, and data analysis.

Changes investigatory timelines.

Clarifies payment hold authority by: specifying that OIG's authority to place payment holds is limited only to the situations listed in statute and providing that payment holds are serious enforcement tools imposed to mitigate ongoing financial risk to the state; providing an exception from the requirement to impose the payment hold if specified good cause exists in accordance with federal law not to impose or continue a payment hold or otherwise reduce a payment hold; providing an exception from having to impose a payment hold for medically necessary services for which the provider has obtained prior authorization by HHSC or its contractor unless OIG has evidence that a provider materially misrepresented the documentation related to the services; and providing that a payment hold takes immediate effect.

Streamlines the payment hold appeal process by: requiring OIG to request a hearing with the State Office of Administrative Hearings (SOAH) within three days of receiving a hearing request from a provider; making OIG responsible for the costs of the hearing, but specifying that providers are responsible for their own costs in preparing for the hearing, unless otherwise determined by the administrative law judge; providing that a SOAH judge shall decide if a payment hold should continue, but not adjust the amount or percent of the hold; giving OIG discretion whether to grant the provider's request for an initial and a second informal resolution meeting; and requiring that the informal resolution process run concurrently with the administrative hearing process and that the informal resolution process be discontinued upon SOAH's final determination on the payment hold.

Provides exceptions to full payment holds and prohibits OIG from placing a payment hold based on claims for medically necessary services for which the provider obtained a prior authorization from HHSC, unless OIG has evidence that the provider materially misrepresented documentation relating to those services.

Allows OIG to share confidential drafts of audits or investigations that concern the death of a child with the Department of Family and Protective Services (DFPS) and provides that the draft remains confidential and is not subject to disclosure under open records requirements.

Requires the executive commissioner of HHSC to adopt rules, in consultation with OIG, establishing criteria: for opening a case; for prioritizing provider, recipient, and internal affairs cases according to specific factors for each case type; and to guide field investigators in closing cases that are not worth pursuing through a full investigation.
Requires the executive commissioner of HHSC, in consultation with OIG, to adopt rules establishing criteria for determining enforcement and punitive actions for a provider who has violated state law, program rules, or the provider's Medicaid provider agreement.

Requires OIG to have its investigations processes reviewed by staff not directly involved in investigations review, including OIG's use of sampling and extrapolation methods to audit provider records.

Requires OIG to arrange for a peer review of OIG's sampling and extrapolation techniques by the Association of Inspectors General or a similar third party. Requires the executive commissioner, in consultation with OIG, to adopt by rule sampling and extrapolation standards to be used in conducting audits.

Requires OIG to submit a quarterly report to any advisory council responsible for advising the executive commissioner on HHSC operations, the executive commissioner, the governor, and the legislature. Requires that the report include information on: OIG’s activities; OIG’s performance with respect to performance measures established by the executive commissioner; fraud trends identified by OIG; and any recommendations for changes in policy to prevent or address fraud, waste, and abuse. Requires the reports to be published on the OIG website.

Requires OIG to consult with the executive commissioner of HHSC regarding the adoption of rules defining OIG's role, jurisdiction, and frequency of audits of managed care organizations conducted by OIG and HHSC. Requires OIG to coordinate all audit and oversight activities related to providers with HHSC to minimize duplication. Requires OIG to annually seek input from HHSC and consider previous audits and onsite visits made by HHSC to determine whether to audit a managed care organization (MCO), and to request the results of any informal audit or onsite visit performed by HHSC that could inform OIG's risk assessment when making a determination regarding an audit of an MCO.

Requires OIG, pursuant to federal law, to employ and commission peace officers to assist OIG in carrying out its duties of investigating fraud, waste, and abuse in the supplemental nutritional assistance program and temporary assistance for needy families program in coordination with appropriate federal entities.

Requires OIG and each licensing authority that requires the submission of fingerprints for a criminal history record information check of a health care professional to enter into a memorandum of understanding to ensure that only persons licensed and in good standing as health care professionals participate as Medicaid providers.

Prohibits OIG from conducting a criminal history record information check for the purpose of determining Medicaid eligibility for a health care professional who the office has confirmed is licensed and in good standing.

Requires OIG, in consultation with HHSC, to: investigate fraud, waste, and abuse by managed care organizations; establish requirements for providing training and oversight of special investigative units or other contracted entities for investigating fraud and other program abuse; establish requirements for approving plans to prevent and reduce fraud and abuse adopted by managed care organizations; evaluate and communicate statewide fraud, waste, and abuse trends to special investigative units and contracted entities to determine the prevalence of those trends; assist managed care units in discovering or investigating fraud, waste, and abuse as needed; and provide ongoing regular training to appropriate...
commission and OIG staff concerning fraud, waste, and abuse in a managed care setting, including training relating to fraud, waste, and abuse by service providers and recipients.

Simplifies the overpayment appeals process by: requiring that notice of an overpayment sent by OIG to a provider must include information relating to the extrapolation methodology used in the overpayment investigation and the methods to determine the overpayment; requiring that the informal resolution process on the overpayment run concurrently with the payment hold hearing process, specifying that it may not delay the hearing on the overpayment; and requiring OIG to pay the costs of the hearing, but specifying that providers are responsible for their own costs in preparing for the hearing.

Requires confidentiality in informal resolution meetings.

Requires compliance with federal coding guidelines.

Authorizes OIG to conduct a performance audit of any program, project, or agreement administered or entered into by HHSC or a health and human services agency, including an audit related to contracting procedures and the performance of HHSC or a health and human services agency. Requires OIG to coordinate audit activities with HHSC to minimize duplication of audit activities and to seek input from HHSC.

Provides appeal rights for pharmacy audits.

Repeals the prohibition on client participation in managed care and the Health Insurance Premium Payment (HIPP) reimbursement program.

Requires the Sunset Advisory Commission to conduct a special-purpose review of the overall performance of OIG as part of its review of agencies for the 87th Legislature.

*Update of Health and Human Services Statutes—S.B. 219*

by Senator Schwertner et al.—House Sponsor: Representatives Price and Raymond

Currently, many Texas statutes relating to the provision and administration of health and human services are out of date. Across the codes, there are portions of law that do not reflect the rulemaking authority of the executive commissioner of the Health and Human Services Commission (HHSC). Other provisions contain references to outdated or expired entities or fail to reflect the transfer of duties and responsibilities to the appropriate legacy agency. Some sections contain terminology that has been recognized as offensive or insensitive. Finally, several sections have become obsolete due to subsequently enacted laws or incorrectly reflect current practices with regard to the imposition, collection, and disposition of certain fees and interest.

It has been noted that, since the 1990s, the laws governing the health and human services agencies have been increasingly difficult for the people of Texas to understand. Lawmakers have also faced difficulty in attempting to write new laws based on existing statutes relating to health and human services because of this outdated language. Legislative drafters have tried to write around these issues by using passive language, adding definitions, and referring to portions of existing law that should have been located in the
code but are instead available only through the state's online statute database. There is concern that these laws will become incomprehensible without prompt action from state legislators. This bill:


Provides statutory language to reflect current health and human services agency functions and practices and repeals obsolete, duplicative, or superseded provisions of law.

Replaces references to abolished or obsolete state agencies, programs, or officers with references to the appropriate legacy agency, program, or officer.

Conforms statutory language to person-first respectful language requirements, including replacing references to an intermediate care facility for the mentally retarded (ICF-MR) with references to an intermediate care facility for individuals with an intellectual or developmental disability (ICF-IID).

Sets out the rulemaking process for the state's health and human services agencies.

Amends statutory language to reflect the rulemaking authority granted to the executive commissioner of HHSC.

Conforms statutory provisions to reflect the rulemaking requirements of the Administrative Procedure Act.

Conforms statutory language, including language relating to certain administrative duties of the executive commissioner and of a health and human services agency or officer to previously enacted legislation and certain bill drafting conventions.

Health-Related Task Forces and Advisory Committees—S.B. 277
by Senator Schwertner—House Sponsor: Representative Sheffield

The Sunset Advisory Commission has concluded there are a number of health-related task forces and advisory committees that are no longer needed, inactive, or have fulfilled their purpose. This bill:

Abolishes certain interagency task forces, advisory committees, and workgroups.

Changes the entity whose advice the comptroller of public accounts may solicit regarding certain electronic benefits transfer enforcement actions from the Medicaid and Public Assistance Fraud Oversight Task Force to the office of the inspector general (OIG).

Transfers certain duties of the Worksite Wellness Advisory Board relating to the state employee wellness program to the Department of State Health Services (DSHS).

Removes the discretion of the executive commissioner of the Health and Human Services Commission (HHSC) to appoint advisory committees as needed and instead requires the executive commissioner to establish and maintain advisory committees to consider issues and solicit public input across all major areas of the health and human services system and sets out issues that are included in such consideration.
Requires HHSC to create a master calendar that includes all meetings of advisory committees established by the executive commissioner under the bill's provisions across the health and human services system and to make available on the HHSC website the master calendar, all meeting materials for advisory committee meetings, and streaming live video of each advisory committee meeting.

Establishes the Drug Utilization Review Board and requires the board, in addition to performing any other duties required by federal law, to develop and submit to HHSC recommendations for preferred drug lists adopted by HHSC for the Medicaid vendor drug program and for prescription drugs purchased through the child health plan program, to suggest to HHSC restrictions or clinical edits on prescription drugs, to recommend to HHSC educational interventions for Medicaid providers, to review drug utilization across Medicaid, and to perform other duties that may be specified by law and otherwise make recommendations to HHSC.

Requires the Drug Utilization Review Board, in developing its recommendations for the preferred drug lists, to consider the clinical efficacy, safety, and cost-effectiveness of and any program benefit associated with a product.

Requires the executive commissioner of HHSC to adopt rules governing the operation of the Drug Utilization Review Board and to require by rule that the board or the board's designee present a summary of any clinical efficacy and safety information or analyses regarding a drug under consideration for a preferred drug list that is provided to the board by a private entity that has contracted with HHSC to provide the information.

Requires the Drug Utilization Review Board, to the extent feasible, to review all drug classes included in the preferred drug lists adopted by HHSC at least once every 12 months and authorizes the board to recommend inclusions to and exclusions from the lists for specified purposes.

Prohibits a voting member of the Drug Utilization Review Board from having certain conflicts of interest with a pharmaceutical manufacturer or labeler or with an entity engaged by HHSC to assist in the development of the preferred drug lists or in the administration of the program.

Establishes that the statutory provision requiring HHSC to seek ongoing input from the Children’s Policy Council regarding establishment and implementation of the STAR Kids Medicaid managed care program expires on the date the council is abolished.

Changes the date on which the STAR Kids Managed Care Advisory Committee is abolished and statutory provisions relating to the committee expire from September 1, 2016, to the first anniversary of the date HHSC completes implementation of the STAR Kids Medicaid managed care program.

Changes the date on which the Intellectual and Developmental Disability System Redesign Advisory Committee is abolished and statutory provisions relating to the committee expire from January 1, 2024, to the one-year anniversary of the date HHSC completes implementation of the transition of ICF-IID program recipients and certain other Medicaid waiver program recipients to a managed care program.

Removes the requirement that HHSC provide administrative support to the interagency coordinating group for faith- and community-based initiatives and the Texas Nonprofit Council and instead requires certain
state agencies to provide administrative support to such entities as coordinated by the presiding officer of the interagency coordinating group.

Removes the requirement that each state agency represented on the board of the Texas Institute of Health Care Quality and Efficiency provide funds to support the institute and implement statutory provisions governing the institute and instead requires the following state agencies and systems to provide such funds: the Department of State Health Services, HHSC, the Texas Department of Insurance, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas Medical Board, the Department of Aging and Disability Services, the Texas Workforce Commission, the Texas Higher Education Coordinating Board, and each state agency or system of higher education that purchases or provides health care services, as determined by the governor.

Requires the executive commissioner, not later than November 1, 2015, to publish in the Texas Register a list of the new advisory committees established or to be established as a result of the bill's provisions and a list that identifies the advisory committees abolished by the bill on January 1, 2016, that will not be continued in any form or whose functions will be assumed by a new advisory committee established under the bill's provisions.

**Increased Oversight by DSHS of Certain Hospitals—S.B. 373**
*by Senator West—House Sponsor: Representative Rose*

Current law protects and promotes the public health and welfare by providing for the development, establishment, and enforcement of certain standards in the construction, maintenance, and operation of hospitals. There is concern, however, that the law does not adequately address the improvement of deficiencies and preventable adverse events by a hospital found to have committed a violation. This bill:

Requires the Department of State Health Services (DSHS), upon finding that a hospital has committed a violation that resulted in a potentially preventable adverse event reportable to DSHS, to require the hospital to develop and implement a plan for approval by DSHS to address the deficiencies that may have contributed to the preventable adverse event.

Authorizes DSHS to require the plan to include staff training and education, supervision requirements for certain staff, increased staffing requirements, increased reporting to DSHS, and a review and amendment of hospital policies relating to patient safety.

Requires DSHS to carefully and frequently monitor the hospital's adherence to the plan and to enforce compliance.

**Licensing and Regulation of Pharmacists and Pharmacies—S.B. 460**
*by Senator Schwertner—House Sponsor: Representative Crownover*

Certain provisions of the Texas Pharmacy Act need to be updated to close loopholes and keep pace with changing technologies. S.B. 460 seeks to amend the law in order to increase the efficiency of the Texas State Board of Pharmacy (TSBOP) and hold bad actors accountable. This bill:
Authorizes a pharmacist, in the event of a natural or manmade disaster, to dispense not more than a 30-day supply of a dangerous drug without the authorization of the prescribing practitioner if: failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering; the natural or manmade disaster prohibits the pharmacist from being able to contact the practitioner; the governor has declared a state of disaster; and TSBOP, through the executive director, has notified pharmacies in Texas that pharmacists may dispense up to a 30-day supply of a dangerous drug.

Exempts the prescribing practitioner from liability for an act or omission by a pharmacist in dispensing a dangerous drug in the event of a natural or manmade disaster.

Authorizes TSBOP to provide the required notice of TSBOP's contact information for the purpose of directing complaints to TSBOP on an electronic messaging system in a font specified by TSBOP rule prominently displayed in the place of business of each person regulated by TSBOP.

Authorizes TSBOP or a TSBOP representative to enter and inspect a facility relative to financial records relating to the facility's operation but restricts TSBOP's inspection of those records to an inspection in the course of the investigation of a specific complaint and to the records related to the specific complaint and subjects such an inspection to statutory provisions relating to TSBOP investigations and the confidentiality of information or material compiled in connection with a TSBOP investigation.

Removes the prohibition against the extension of a TSBOP investigation of a facility to financial data, sales data other than shipment data, or pricing data, with certain exceptions, and makes such data obtained by TSBOP during an inspection of a facility confidential and not subject to disclosure under state public information law.

Requires a pharmacist to provide to TSBOP, on request, records of the pharmacist's practice that occurs outside of a pharmacy and requires the pharmacist to provide the records at a time specified by TSBOP.

Increases from two to four the maximum number of times an applicant for a license to practice pharmacy may retake the licensing examination subsequent to failure on the applicant's first attempt and increases from three to five the number of failed examination attempts that triggers the requirement that the applicant provide documentation showing completion of additional college course work in the examination subject area the applicant failed in order to be allowed to retake the examination.

Revises the required contents of a completed pharmacy license application by requiring proof that no owner of the pharmacy for which the application is made has held a pharmacist license in Texas or another state, if applicable, that has been restricted, suspended, revoked, or surrendered for any reasons and by specifying the type of license to which certain required contents must be in reference.

Reduces from one year to 91 days the minimum amount of time that a pharmacy's license can be expired before the pharmacy is prohibited from renewing the license and repeals a provisions authorizing a pharmacy whose license has been expired for more than 90 days but less than one year to renew the expired license by paying a renewal fee to TSBOP.

Makes statutory provisions relating to the required practitioner-patient relationship applicable to all prescriptions, regardless of the type of consultation on which the prescription is issued or the type of substance that is prescribed.
Changes the deadline for a pharmacy to report in writing to TSBOP a change of location of the pharmacy from not later than the 10th day after the date of the change of location to not later than the 30th day before the date of the change of location and makes this deadline change applicable only to a pharmacy that changes location on or after October 1, 2015.

Authorizes TSBOP to discipline an applicant for or the holder of a pharmacy license if TSBOP finds that the applicant or license holder has waived, discounted, or reduced, or offered to waive, discount, or reduce, a patient copayment or deductible for a compounded drug in the absence of a legitimate, documented financial hardship of the patient or evidence of a good faith effort to collect the copayment or deductible from the patient.

Changes the date on which TSBOP must remove all records of a remedial plan imposed to resolve the investigation of a complaint from TSBOP’s records if a license holder complies with and successfully completes the terms of the remedial plan from the fifth anniversary of the date TSBOP issued the terms of the remedial plan to the end of the state fiscal year in which the fifth anniversary of the date TSBOP issued the terms of the remedial plan occurs.

Removes a disciplinary action taken TSBOP regarding a remedial plan from the disciplinary actions taken by TSBOP that are governed by the Administrative Procedure Act and the rules of practice and procedure before TSBOP and specifies that this change is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by the bill.

Repeals requirements that a pharmacist display a specified sign regarding the availability of a less expensive generically equivalent drug and publicly display the pharmacist's license to practice pharmacy and license renewal certificate in the pharmacist's primary place of practice.

Registration of DSOs—S.B. 519

by Senator Schwertner—House Sponsor: Representative Crownover

Dental support organizations (DSOs) provide a wide variety of business support services to dentists. Interested parties contend that the law regarding the manner in which information about such organizations is collected by the state needs to be amended in order to better assess these organizations' impact on the practice of dentistry in Texas. This bill:

Defines a DSO as an entity that, under an agreement, provides two or more business, management, consulting, or administrative services, facilities, or staff to a dentist.

Defines "business support services" as business, management, consulting, or administrative services, facilities, or staff provided for a dentist, including: office space, furnishings, and equipment; staff employed by the DSO; regulatory compliance; inventory of supplies, including dental equipment and supplies; information systems; marketing and advertising; financial services; accounting, bookkeeping, or monitoring or payment of accounts receivable; payroll or benefits administration; billing and collecting for services and products; reporting and payment of federal or state taxes; administration of interest expense or indebtedness incurred to finance the operation of a business; or insurance services.

Requires a DSO to annually register with the secretary of state.
Establishes that a DSO’s registration is considered registration of any subsidiary, contractor, or affiliate of the DSO through or with which the DSO provides business support services.

Exempts from the registration requirement an accountant providing only accounting services, an attorney providing only legal counsel, an insurance company or insurance agent providing only insurance policies to a business, and entities providing only investment and financial advisory services.

Sets out the required contents of the registration.

Provides for a registration fee set by the secretary of state and sets forth registration deadlines.

Provides that a DSO is not required to register before February 1, 2016.

Provides that a person who fails to file a registration or a corrected registration as required by the bill is liable for a civil penalty in an amount not to exceed $1,000 and establishes that each day a violation continues or occurs is a separate violation for the purpose of imposing the civil penalty.

Requires the attorney general to file suit to collect the civil penalty and provides that the suit may be filed in Travis County or any county where the DSO provides business support services.

Requires the secretary of state and the Texas State Board of Dental Examiners (TSBDE) to enter into an interagency memorandum to share the registration information collected by the secretary of state with TSBDE.

Does not limit nonclinical business support services that may be provided to a dentist by a DSO.

Replaces the requirement that TSBDE collect from dentists licensed by TSBDE in conjunction with the issuance and renewal of each dental license certain information regarding a contract or an agreement with or the license holder’s ownership of a DSO with the requirement that TSBDE collect from those dentists in that manner certain information regarding an agreement with or the license holder’s ownership of a DSO.

Requires that a DSO provide certain information to TSBDE upon request by TSBDE.

Training Courses for Certain Food Handlers—S.B. 582
by Senator Kolkhorst—House Sponsor: Representative Harless

A local health jurisdiction may require food handlers to be certified by a training program accredited under state law. However, interested parties have expressed certain concerns regarding this issue, among them a concern that such training programs vary from locality to locality and create a burden on otherwise qualified individuals. This bill:

Establishes that a food service worker trained in a food handler training course accredited by the American National Standards Institute is considered to have met a local health jurisdiction’s training, testing, and permitting requirements.
Authorizes a local health jurisdiction to require a food establishment to maintain on the premises of the food establishment a certificate of completion of the training course for employees of the food establishment.

**Texas Physician Assistant Board—S.B. 622**

*by Senator Uresti—House Sponsor: Representatives Laubenberger and Zedler*

The Texas Physician Assistant Board is responsible for regulating licensed physician assistants, including approving applicants for licensure and holding disciplinary proceedings for and taking enforcement action against licensees. In recent years, due to the significant growth in the number of licensed physician assistants in Texas, the workload of the board has grown, particularly in these areas of regulation. S.B. 622 seeks to amend the law relating to board membership to allow the board to more easily perform its duties. This bill:

- Increases from nine to 13 the number of members of the Texas Physician Assistant Board by increasing from three to seven the number of board members who are practicing physician assistants who each have at least five years of clinical experience.
- Requires that the board member designated as the presiding officer of the board be a physician assistant.
- Requires the governor, not later than November 1, 2015, to appoint four members to the board as follows: one member for a term expiring February 1, 2017; one member for a term expiring February 1, 2019; and two members for terms expiring February 1, 2021.
- Provides for the removal of a presiding officer of the board who does not meet the qualifications for office on the bill's effective date and requires the governor, as soon as practicable on or after the bill's effective date, to appoint a presiding officer who meets the qualifications.

**Managed Care Organizations and Long-Term Services—S.B. 760**

*by Senator Schwertner et al.—House Sponsor: Representative Price*

The vast majority of individuals enrolled in the Texas Medicaid program are served through contracts with managed care organizations (MCOs), which total approximately $15 billion annually. Providing access to care through adequate provider networks is one of the most important functions of these state contractors. S.B. 760 seeks to provide the Health and Human Services Commission (HHSC) the tools necessary to adequately monitor these contracts and ensure that managed care organizations are being held accountable for having adequate provider networks to deliver the care for which the state is paying. S.B. 760 also seeks to ensure the state's compliance with federal requirements related to investigations of abuse, neglect, or exploitation for the health and welfare of recipients of home and community-based long-term services. This bill:

- Requires HHSC to establish minimum provider access standards for the provider network of an MCO that contracts with HHSC to provide health care services to Medicaid managed care recipients.
Requires that the access standards ensure that an MCO provides recipients sufficient access to preventive care, primary care, specialty care, after-hour urgent care, chronic care, long-term services and supports, nursing services, therapy services, and any other services identified by HHSC.

Requires the provider access standards, to the extent feasible, to distinguish between access to providers in urban and rural settings and to consider the number and geographic distribution of Medicaid-enrolled providers in a particular service delivery area.

Requires HHSC to biennially submit to the legislature and to make available to the public a report containing information and statistics about recipient access to providers through the provider networks of the MCOs and MCO compliance with contractual obligations related to provider access standards and sets out the required contents of the report.

Authorizes HHSC, if an MCO that has contracted with HHSC to provide health care services to Medicaid managed care recipients fails to comply with one or more provider access standards and HHSC determines the organization has not made substantial efforts to mitigate or remedy the noncompliance, to elect to not retain or renew HHSC's contract with the organization or to require the organization to pay liquidated damages. Requires HHSC, in such a case, to suspend default enrollment to the organization in a given service delivery area for at least one calendar quarter if the organization's noncompliance occurs in the service delivery area for two consecutive calendar quarters.

Requires HHSC to ensure that an MCO that contracts with HHSC posts on the organization's website the organization's provider network directory, to be updated at least monthly, and a direct telephone number and e-mail address through which a recipient enrolled in the organization's managed care plan or the recipient's provider may contact the organization to receive assistance with identifying in-network providers and services available to the recipient and scheduling an appointment for the recipient with an available in-network provider or to access available in-network services.

Requires an MCO that contracts with HHSC to establish and implement an expedited credentialing process that would allow applicant providers to provide services to Medicaid recipients on a provisional basis and requires HHSC to identify the types of providers for which the expedited credentialing process must be established and implemented.

Requires an applicant provider, in order to qualify for expedited credentialing, to be a member of an established health care provider group that has a current contract in force with an MCO that contracts with HHSC, to be a Medicaid-enrolled provider, to agree to comply with the terms of the contract, and to submit all documentation and other information required by the MCO as necessary to enable the organization to begin the credentialing process required by the organization to include a provider in the organization's provider network.

Requires an MCO, on submission by the applicant provider of the information required by the organization and for Medicaid reimbursement purposes only, to treat the provider as if the provider were in the organization's provider network when the provider provides services to Medicaid managed care recipients.

Authorizes an MCO, if the organization determines on completion of the credentialing process, that the applicant provider does not meet the organization's credentialing requirements, to recover from the provider the difference between payments for in-network benefits and out-of-network benefits.
Authorizes an MCO, if the organization determines on completion of the credentialing process that the applicant provider does not meet the organization's credentialing requirements and that the provider made fraudulent claims in the provider's application for credentialing, to recover from the provider the entire amount of any payment made to the provider.

Requires HHSC to establish and implement a process for the direct monitoring of a managed care organization's provider network and providers in the network.

Removes an exception for investigations of abuse in nursing homes, assisted living facilities, and similar facilities by the Department of Family and Protective Services (DFPS), if a provider is alleged to have committed the abuse, neglect, or exploitation.

Requires DFPS to investigate allegations of abuse, neglect, or exploitation of an individual receiving services from a provider who provides home and community-based services under a home and community-based services waiver program, if the person alleged or suspected to have committed the abuse, neglect, or exploitation is a provider, even if the individual does not receive services under the waiver.

Prohibits DFPS from investigating allegations of abuse, neglect, or exploitation of an individual receiving services from a provider who provides home and community-based services under a home and community-based services waiver program if another state agency has authority to license a provider investigate reports of abuse, neglect, or exploitation of an individual by that provider.

Requires DFPS to investigate reports of abuse, neglect, or exploitation of a child receiving services from an officer, employee, agent, contractor, or subcontractor of a home and community support services agency, if the part is or may be the person alleged to have committed the abuse, neglect, or exploitation. Requires DFPS, if the child is living in a residence owned, operated, or controlled by the provider who provides home and community-based services under a home and community-based services waiver program, to provide protective services to the child, including emergency protective services, if necessary.

Ombudsman for Children and Youth in Foster Care—S.B. 830
by Senator Kolkhorst—House Sponsor: Representative Dutton

Allegations involving a violation of a child's rights while in foster care, including abuse or neglect the child may have suffered while in a foster home, group home, or residential treatment facility, are sometimes not made until after a youth has aged out of foster care. Interested parties cite a variety of reasons why these situations are not reported at the time of the incident, including distrust of the staff who placed the child in a home where the child was mistreated, perception that nothing will be done based on previous concerns that were not addressed, and fear of retaliation or vulnerability in the child's placement. The parties further claim that the authority and function of the current ombudsman office for the Department of Family and Protective Services (DFPS), which is responsible for taking complaints and providing an independent investigation to ensure that policy and procedure are being followed, need to be strengthened in order to ensure that youth in state custody are aware of the protections the office is intended to provide. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to appoint an ombudsman for children and youth in foster care who serves at the will of the executive commissioner and is administratively attached to the office of the ombudsman for HHSC.
Authorizes the ombudsman, subject to the appropriation of money for the purpose, to employ staff to assist the ombudsman in performing the ombudsman's duties.

Requires the executive commissioner of HHSC, as soon as possible after the bill’s effective date, to assign one full-time equivalent employee of the DFPS to serve as the ombudsman.

Specifies that the ombudsman serves as a neutral party in assisting children and youth in DFPS conservatorship with complaints regarding issues within the authority of DFPS or another health and human services agency.

Requires the ombudsman to develop and implement statewide procedures to receive complaints from children and youth in DFPS conservatorship, to review complaints filed with the ombudsman and take appropriate action, to provide any necessary assistance to children and youth in DFPS conservatorship in making complaints and reporting allegations of abuse or neglect to DFPS, to maintain the confidentiality of certain specified communications and records, and to ensure that DFPS and a child or youth in DFPS conservatorship who files a complaint with the ombudsman are informed of the results of the ombudsman's investigation of the complaint.

Requires the ombudsman to issue and file with DFPS and any applicable health and human services agency a report that contains the ombudsman's final determination regarding a complaint and any recommended corrective actions to be taken as a result of the complaint, to establish a secure form of communication with any individual who files a complaint with the ombudsman, to collaborate with DFPS to identify consequences for any retaliatory action related to a complaint filed with the ombudsman in accordance with the bill's provisions, and to collaborate with DFPS to develop and implement an annual outreach plan to promote awareness of the ombudsman among children and youth in DFPS conservatorship.

Requires the ombudsman, if during the investigation of a complaint the ombudsman discovers unreported violations of DFPS's or a health and human services agency's rules and policies, to open a new investigation for each unreported violation.

Requires DFPS and each health and human services agency to provide the ombudsman access to DFPS or agency records that relate to a complaint the ombudsman is reviewing or investigating.

Authorizes a person to communicate with the ombudsman relating to a complaint by telephone, by mail, by electronic mail, or by any other means the ombudsman determines to be feasible, secure, and accessible to children and youth and specifies that a communication with the ombudsman is confidential during an investigation or review of a complaint and remains confidential after the complaint is resolved.

Establishes that the records of the ombudsman are confidential and requires that the records be maintained in a manner that preserves the confidentiality of the records, that the disclosure of confidential information to the ombudsman under the bill's provisions does not constitute a waiver of confidentiality, and that any information so disclosed to the ombudsman remains confidential and privileged following disclosure.
Authorizes the ombudsman to make reports relating to an investigation of a complaint public after the complaint is resolved but prohibits a report from including information that identifies an individual complainant, client, parent, or employee or any other person involved in the complaint.

Prohibits DFPS or another health and human services agency from retaliating against a child or youth in DFPS conservatorship who in good faith makes a complaint to the ombudsman or against any person who cooperates with the ombudsman in an investigation.

Requires the ombudsman to prepare an annual report to be submitted to the executive commissioner of HHSC and the commissioner of DFPS not later than December 1 of each year and sets out the required contents of the report.

Requires DFPS and HHSC, on receipt of the report, to make the report publically available on the DFPS and HHSC websites.

Requires DFPS to cooperate with the ombudsman for children and youth in foster care to create consequences, based on the circumstances of the complaint and the severity of the retaliation, for any person who is found to have retaliated against a child or youth in DFPS conservatorship because of a complaint made to the ombudsman.

Requires the executive commissioner of HHSC to adopt rules requiring all residential child-care facilities in which children and youth in DFPS conservatorship are placed to display information about the ombudsman for children and youth in foster care and the process for filing a complaint with the ombudsman in a location that is easily accessible and offers maximum privacy to the children and youth residing at the facility.

**Violations in Medicaid Waiver Programs—S.B. 1385**  
*by Senators Schwertner and Zaffirini—House Sponsor: Representative Price et al.*

The home and community-based services (HCS) waiver program and the Texas home living (TxHmL) waiver program are Medicaid programs that allow individuals with intellectual and developmental disabilities to live in the community, rather than in an institution. Recent data indicates that there are roughly 1,000 providers of these services in over 2,000 contracts with the Department of Aging and Disability Services (DADS) to provide services in designated areas of the state. Because of the services provided, these programs are in high demand and provide support to extremely vulnerable populations. There is concern, however, that the current sanctions DADS may impose on a provider who is not in compliance with program requirements, such as suspension of payments or termination of contracts, are limited and, in some cases, ineffective. Interested parties assert the need for a broader spectrum of sanctions that address various degrees of violations. This bill:

Authorizes DADS to assess and collect an administrative penalty against a Medicaid provider who participates in the HCS waiver program or the TxHmL waiver program for a violation of a law or rule relating to the program.

Prohibits DADS, if DADS assesses an administrative penalty against such a provider, from imposing a payment hold against or otherwise withholding contract payments from the provider for the same violation of a law or rule.
Requires the executive commissioner of the Health and Human Services Commission (HHSC), after consulting with appropriate stakeholders, to develop and adopt rules regarding the imposition of the administrative penalties and requires that the rules: specify the types of violations that warrant imposition of an administrative penalty; establish a schedule of progressive administrative penalties in accordance with the relative type, frequency, and seriousness of a violation; prescribe reasonable amounts to be imposed for each violation giving rise to an administrative penalty; authorize the imposition of an administrative penalty in an amount not to exceed $5,000 for each violation; provide that a provider commits a separate violation each day the provider continues to violate the law or rule; ensure standards and consistent application of administrative penalties throughout the state; and provide for an administrative appeals process to adjudicate claims and appeals relating to the imposition of an administrative penalty that is in accordance with the Administrative Procedure Act.

Requires the executive commissioner of HHSC, in specifying the types of violations that warrant imposition of an administrative penalty, to specify the types of minor violations that allow a provider an opportunity to take corrective action before a penalty is imposed.

Prescribes the factors the executive commissioner of HHSC must consider in establishing the schedule of progressive administrative penalties and penalty amounts.

Requires DADS, in lieu of imposing an administrative penalty, to allow a provider found to have committed a minor violation specified by rule of the executive commissioner to have a reasonable period of time that is not less than 45 days after the date DADS sends notice to the provider of the violation to take corrective action regarding the violation.

Prohibits DADS from allowing time for corrective action for any violation that is not a minor violation.

**DSHS Forensic Director—S.B. 1507**

by Senators Garcia and Rodriguez—House Sponsor: Representatives Naishtat and Price

Interested parties assert the need for improved statewide coordination and oversight of forensic and competency restoration services provided to individuals who are determined to be incompetent to stand trial, committed to court-ordered mental services, or found not guilty by reason of insanity. Services can include community-based outpatient competency restoration, jail-based restoration, or inpatient restoration at a state mental health hospital. There is concern that forensic services, which are currently administered by the Department of State Health Services (DSHS), are not adequately coordinated and are not equally utilized in all judicial districts. The interested parties contend that the size and complexity of the forensic population served by DSHS has grown to the extent that a local approach no longer meets the need for efficient statewide and cross-agency coordination between public mental health and justice systems. As a result, a growing number of individuals in state hospitals are involved in the criminal justice system and more inmates in Texas prisons and jails are living with one or more mental health conditions and substance use disorders. S.B. 1507 seeks to streamline the provisions and coordination of forensic services statewide. This bill:

Requires the commissioner of DSHS to appoint a forensic director as soon as practicable after the bill's effective date.
Requires the forensic director to have proven expertise in the social, health, and legal systems for forensic patients and in the intersection of those systems.

Defines “forensic services” as a competency examination, competency restoration services, or mental health services provided to a current or former forensic patient in the community or at a DSHS facility.

Defines “forensic patient” as a person with mental illness who is examined on the issue of competency to stand trial by an appointed expert, found incompetent to stand trial, committed to court-ordered mental health services, or found not guilty by reason of insanity.

Establishes that the forensic director reports to the commissioner of DSHS and is responsible for statewide coordination and oversight of forensic services and coordination of DSHS programs relating to evaluation of forensic patients, transition of forensic patients from inpatient to outpatient or community-based services, community forensic monitoring, or forensic research and training.

Establishes that the forensic director is responsible for addressing issues with the delivery of forensic services in Texas, including significant increase in populations with serious mental illness and criminal justice system involvement, adequate availability of DSHS facilities for civilly committed forensic patients, wait times for forensic patients who require competency restoration services, interruption of mental health services of recently released forensic patients, and coordination of services provided to forensic patients by state agencies.

Requires the commissioner of DSHS to establish a work group of experts and stakeholders to make recommendations concerning the creation of a comprehensive plan for the effective coordination of forensic services.

Requires the work group to have a minimum of nine members, with the commissioner of DSHS selecting the total number of members at the time the commissioner establishes the work group, and sets out the composition of the work group.

Authorizes the work group, in developing recommendations, to use information compiled by other work groups in Texas, especially work groups for which the focus is mental health issues.

Requires the work group, not later than July 1, 2016, to send a report describing the work group’s recommendations to the lieutenant governor, the speaker of the House of Representatives, and the standing committees of the Senate and the House of Representatives with primary jurisdiction over forensic services.

Authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules as necessary to implement the work group.

Dissolves the work group and sets its provisions governing the work group to expire November 1, 2019.

Requires the commissioner of DSHS to establish a forensic work group and requires the executive commissioner to appoint members of the work group and to adopt any rules necessary to implement the bill’s provisions not later than November 1, 2015.
Criminal History for HHSC Applicants and Employees—S.B. 1540

by Senator Perry—House Sponsor: Representative Keough

Employees of health and human services agencies have significant access to sensitive information and systems, including personal, financial, and health information for individuals who are applying for or receiving benefits through the Health and Human Services Commission (HHSC), as well as direct access to residents and clients of certain regulated facilities. There is concern that this access could potentially be misused to conduct illegal activities, and the parties assert that criminal background checks should be conducted on such employees or prospective employees to mitigate the risk for illegal activities in these situations. S.B. 1540 seeks to ensure that certain health and human services agencies have the authority to obtain criminal history record information for certain employees. This bill:

Establishes that the executive commissioner of HHSC, or the executive commissioner's designee, is entitled to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to a person who is an applicant for employment for a position in which the person, as an employee, would have access to sensitive personal or financial information, as determined by the executive commissioner of HHSC, in the eligibility services division of HHSC or HHSC's office of inspector general, or that relates to a person who is an employee of HHSC who has access to sensitive personal or financial information, as determined by the executive commissioner of HHSC.

Prohibits the release or disclosure of criminal history record information obtained by the executive commissioner of HHSC or the executive commissioner's designee under the bill's provisions, except if the information is in a public record at the time the information is obtained, on court order, to a criminal justice agency on request, or with the consent of the person who is the subject of the criminal history record information.

Establishes that HHSC is not prohibited from disclosing criminal history record information obtained under the bill's provisions in a criminal proceeding or in a hearing conducted by HHSC.

Requires the executive commissioner of HHSC to destroy all criminal history record information obtained under the bill's provisions as soon as practicable after the information is used for its authorized purpose.

Includes among the persons for whom the Department of Aging and Disability Services (DADS) is entitled to obtain criminal history record information from DPS a person who is an applicant for employment with DADS for a position in which the person, as an employee, would have direct access to residents or clients of a facility regulated by DADS, as determined by the commissioner of aging and disability services, and a person who is an employee of DADS and who has direct access to residents or clients of a facility regulated by DADS, as determined by the commissioner of aging and disability services.

Requires DADS to destroy the criminal history record information obtained by DADS for such individuals after the information is used for the authorized purpose.

Authorizes the executive commissioner of HHSC to require a person for whom the executive commissioner is entitled to obtain criminal history record information from DPS under the bill's provisions to submit fingerprints in a form and of a quality acceptable to DPS and the Federal Bureau of Investigation (FBI) for use in conducting a criminal history background check by obtaining criminal history record information from DPS, the FBI, or a local criminal justice agency.
Limits the use of criminal history record information obtained by the executive commissioner from such an agency to the evaluation of the qualification or suitability for employment, including continued employment, of an applicable applicant or employee.

Authorizes the executive commissioner of HHSC or the executive commissioner's designee to release or disclose criminal history record information obtained from the FBI or a local criminal justice agency only to a governmental entity or as otherwise authorized by federal law, including federal regulations and executive orders.

Authorizes DADS to obtain criminal history record information regarding a person for whom DADS is entitled to obtain criminal history record information from DPS in the manner provided by applicable Government Code provisions and establishes that such criminal history record information is subject to applicable restrictions and requirements.

Regulation of Chemical Dependency Treatment Facilities—S.B. 1560
by Senator Zaffirini—House Sponsor: Representative Lozano

Previous legislation relating to obtaining patient consent to medication and treatment in chemical dependency treatment facilities had some unintended consequences that place substantial burdens on these facilities. Interested parties contend that failure to address this issue through legislation could have serious effects on facilities. This bill:

Establishes that certain statutory provisions relating to a patient's consent to or refusal of a medication, therapy, or treatment at certain treatment facilities do not apply to a licensed chemical dependency treatment facility.

Prohibits a licensed chemical dependency treatment facility from providing treatment to a patient without the patient's legally adequate consent.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to establish by rule standards for obtaining a patient's legally adequate consent to treatment, including rules prescribing reasonable efforts to obtain a patient's consent and requiring documentation for those efforts.

Conditions the validity of consent to the administration of prescription medication given by a patient receiving treatment in a licensed chemical dependency treatment facility or by the patient's representative on the consent being given voluntarily and without coercive or undue influence; the patient and, if appropriate, the patient's representative being informed in writing that consent may be revoked; and the consent being evidenced in the patient's clinical record by a signed form prescribed by the treatment facility or by a statement of the treating physician or a person designated by the physician that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained.

Establishes that each patient receiving treatment in a licensed chemical dependency treatment facility has the right to refuse unnecessary or excessive medication.
Provides that medication may not be used by the treatment facility as punishment or for the convenience of the staff.

Requires the executive commissioner of HHSC to require by rule the treating physician of a patient admitted to a licensed chemical dependency treatment facility or the physician's designee to provide to the patient in the patient’s primary language, if possible, information relating to prescription medications ordered by the physician and requires the information, at a minimum, to identify the major types of prescription medications and specify for each major type the conditions the medications are commonly used to treat, the beneficial effects on those conditions generally expected from the medications, side effects and risks associated with the medications, commonly used examples of medications of the major type, and sources of detailed information concerning a particular medication.

Requires the treating physician, if the physician designates another person to provide the information regarding the prescription medication ordered by the physician, not later than two working days after that person provides the information, excluding weekends and legal holidays, to meet with the patient and, if appropriate, the patient’s representative who provided consent for the administration of the medications to review the information and answer any questions.

Requires the treating physician or the physician's designee to also provide the information to the patient's family on request, but only to the extent not otherwise prohibited by state or federal confidentiality laws.

Requires the facility administrator of a licensed chemical dependency treatment facility, on the request of a patient, a person designated by the patient, or the patient's legal guardian or managing conservator, if any, to provide to the patient, the patient's legal guardian or managing conservator a list of the medications prescribed for administration to the patient while the patient is in the treatment facility and requires that the list include, for each medication, the name of the medication, the dosage and schedule prescribed for the administration of the medication, and the name of the physician who prescribed the medication.

Requires that the list be provided before the expiration of four hours after the facility administrator receives a written request for the list from the patient, a person designated by the patient, or the patient's legal guardian or managing conservator, if any.

Provides that, if sufficient time to prepare the list before discharge is not available, the list may be mailed before the expiration of 24 hours after discharge to the patient, the person designated by the patient, and the patient's legal guardian or managing conservator.

Authorizes a patient or the patient's legal guardian or managing conservator, if any, to waive the right of any person to receive the list of medications while the patient is participating in a research project if release of the list would jeopardize the project's results.

Redefines "screening," for purposes of statutory provisions relating to the voluntary admission of a patient to a chemical dependency treatment facility, to specify that screening occurs after a patient is admitted and repeals the definition of "assessment" for purposes of those provisions.

 Specifies that the mental health professional who performs the mental health evaluation used to represent or recommend that a prospective patient be admitted to a chemical dependency facility for treatment and
the mental health professional who makes a determination that a patient meets the facility's admission standards do not have to be the same mental health professional.

Emergency Response Personnel Exposed to Certain Diseases—S.B. 1574
by Senators Uresti and Campbell—House Sponsor: Representative "Mando" Martinez

For certain emergency response employees or volunteers, especially emergency medical service personnel, exposure to blood or bodily fluid is a daily occurrence and there is no system in place for timely notification or confirmation of exposure to an infectious disease or other reportable disease or parasite for these personnel. Emergency response employees or volunteers need to know this information quickly because the possible risks can negatively affect their personal lives, loved ones, and peace of mind. Timely notification of such exposure would also prevent unnecessary treatment or delays in treatment, thereby increasing the odds of preventing transmission of the disease. This bill:

Requires an entity that employs or uses the services of an emergency response employee or volunteer to nominate a designated infection control officer and an alternate officer to: receive notification of a potential exposure to a reportable disease from a health care facility; notify the appropriate health care providers of a potential exposure to a reportable disease; act as a liaison between the entity's emergency response employees or volunteers who may have been exposed to a reportable disease during the course and scope of employment or service as a volunteer and the destination hospital of the patient who was the source of the potential exposure; investigate and evaluate an exposure incident using current evidence-based information on the possible risks of communicable disease presented by the exposure incident; and monitor all follow-up treatment provided to the affected emergency response employee or volunteer in accordance with applicable federal, state, and local law.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to prescribe the qualifications required for a person to be eligible to be designated as an infection control officer and requires that those qualifications include a requirement that the person be trained as a health care provider or have training in the control of infectious and communicable diseases.

Establishes that the entity that employs or uses the services of an emergency response employee or volunteer is responsible for notifying the local health authorities or local health care facilities, according to any local rules or procedures, that the entity has a designated infection control officer or alternate infection control officer.

Requires the executive commissioner of HHSC to review the federal Ryan White HIV/AIDS Treatment Extension Act of 2009 or any successor law and any regulations adopted under the law and determine whether adopting any part of the federal law or regulations by rule is in the best interest of the state to further achieve the purposes of the Communicable Disease Prevention and Control Act and authorizes the executive commissioner to adopt by rule all or a part of the federal law or regulations if the executive commissioner determines that adopting the federal law or regulations is in the best interest of the state to further achieve those purposes.

Authorizes the release of medical or epidemiological information regarding cases or suspected cases of diseases or health conditions to a designated infection control officer.
Expands the requirement that notice be given to certain individuals providing emergency care regarding an individual's possible exposure to a reportable disease to include requiring notice to be given to an emergency response employee or volunteer and requiring that notice be given regarding a negative test result, as well as a positive result, for a reportable disease. Requires that such notice be given by the hospital to the designated infection control officer of the entity that employs or uses the services of the affected emergency response employee or volunteer and by the local health authority or designated infection control officer to the employee or volunteer affected. Authorizes a designated infection control officer that receives such notice to give notice of the possible exposure to a person other than the affected employee or volunteer if that person demonstrates that the person was exposed to the reportable disease while providing emergency care.

Authorizes any emergency response employee or volunteer to request the Department of State Health Services (DSHS) or a health authority to order testing of another person who may have exposed the employee or volunteer to a reportable disease. Requires DSHS or a designee of DSHS to inform the designated infection control officer of the person who requested the order of the test results if that person is an emergency response employee or volunteer.

Expands the requirement that a patient who is transported to a licensed hospital be tested for certain conditions after a person who renders assistance to the patient is accidentally exposed to the patient's blood or other body fluids to include testing after an emergency response employee or volunteer is accidentally exposed. Requires the hospital to provide those test results to the designated infection control officer of the entity employing or using the services of an affected emergency response employee or volunteer and includes HIV or any reportable disease among the conditions for which the hospital is required to take reasonable steps to test the patient.

**ID Requirements of Health Care Providers Associated With Hospital—S.B. 1753**

*by Senator Campbell—House Sponsor: Representative Sarah Davis*

Recently enacted legislation aimed at helping hospital patients understand the level of training of those providing direct patient care by requiring certain health care providers to wear a photo identification badge clearly stating the provider's name, department, and license type. S.B. 1753 seeks to further this goal. This bill:

Prescribes the specific occupational designations required to be clearly stated on the photo identification badge of a health care provider who holds an applicable license or certificate and provides direct patient care at a hospital.

Adds a temporary provision, set to expire September 1, 2020, establishing that a licensed hospital is not required to list the type of license held by a health care provider on the provider's photo identification badge until September 1, 2019.
Regulation of Emergency Medical Services—S.B. 1899
by Senators Campbell and Zaffirini—House Sponsor: Representative "Mando" Martinez et al.

Paramedics can be a valuable resource for a health care facility in an emergency room setting under certain circumstances. S.B. 1899 seeks to modify certain statutes governing emergency medical services providers and licensees to improve consumer protections. This bill:

Authorizes a person who is certified as an emergency medical technician-paramedic or a licensed paramedic, is acting under the delegation and direct supervision of a licensed physician, and is authorized to provide advanced life support by a health care facility to provide, in accordance with any necessary rules adopted as soon as practicable by the executive commissioner of the Health and Human Services Commission (HHSC), advanced life support in the facility's emergency or urgent care clinical setting.

Authorizes the Department of State Health Services (DSHS) to develop and administer, at least twice each calendar year, a jurisprudence examination to determine the knowledge that an applicant for an emergency medical services provider license or emergency medical services personnel certification has of the Emergency Health Care Act, HHSC executive commissioner rules, and any other applicable laws affecting the applicant's activities regulated under that act.

Requires the executive commissioner of HHSC to adopt rules to specify who must take the examination on behalf of an entity applying for an emergency medical services provider license.

Requires that an emergency medical services provider operate out of a physical location that meets certain criteria set forth and that the provider own or lease all equipment necessary for safe operation of an emergency medical services provider.

Requires an emergency medical services provider to have a permanent physical location as the provider's primary place of business and requires an applicant for an emergency medical services provider license to demonstrate proof of the location of the primary place of business in the manner required by DSHS. Requires an emergency medical services provider to remain in the same physical location for the period of licensure, unless DSHS approves a change in location.

Requires an emergency medical services provider to maintain all patient care records in the physical location that is the provider's primary place of business, unless DSHS approves an alternate location, and specifies that only one emergency medical services provider may operate out of a single physical location.

Requires DSHS to track and keep records of each complaint it receives regarding emergency medical services providers and emergency medical services personnel and of each investigation and disciplinary action initiated by DSHS under the Emergency Health Care Act.

Requires DSHS, as soon as practicable, to develop a formal process to refer complaints outside DSHS jurisdiction to the appropriate agency for disposition.

Requires DSHS to track the types of complaints received outside of its jurisdiction and requires DSHS to separately track complaints outside of its jurisdiction relating to potential billing fraud and make information relating to those complaints available to the appropriate state agency.
Requires DSHS to annually report statistical information regarding each complaint received, and each investigation or disciplinary action initiated under the Emergency Health Care Act and prescribes the required contents of the report.

Requires DSHS to make the report available to the public through publication on the DSHS website and on request.

Authorizes DSHS to use an inspection of an emergency medical services vehicle or the premises of an emergency medical services provider's place of business performed by an entity to which DSHS has delegated inspection authority as a basis for disciplinary action and specifies that such an inspection may be used regardless of whether the inspection was performed before, on, or after the bill's effective date.
Powers and Duties of DPS, Military, and Law Enforcement Training—H.B. 11

by Representative Dennis Bonnen et al.— Senate Sponsor: Senator Birdwell et al.

The Department of Public Safety of the State of Texas (DPS) recently launched an operation that increased the number of law enforcement and Texas military personnel along the Texas-Mexico border. According to interested parties, this operation has led to discussions regarding the need for a long-term solution to human trafficking and the flow of illegal contraband through the border. The parties are concerned that transnational gangs and perpetrators of organized crime have become entrenched in communities across Texas, threatening the safety of the public and resulting in an increase in the exploitation of human beings for profit and the ruin of many lives through drug addiction.

These parties believe that the state can strengthen the border through, among other things, more stringent penalties for the smuggling of humans and illegal contraband across the border, improved tools to address the counterflow of contraband, enhanced transparency of crime data throughout Texas, and more effective data-sharing by law enforcement to connect crimes to identify larger criminal enterprises and pursue stronger penalties against organized crime. This bill:

Provides that rangers, officers, and members of the reserve officer corps commissioned by the Public Safety Commission (commission) and the director of DPS (director) and commission investigators commissioned by the Texas Private Security Board of DPS (board) are peace officers.

Authorizes a judge of competent jurisdiction to issue an order authorizing interception of wire, oral, or electronic communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of certain offenses, including an offense under Section 43.04 (If Defendant is Absent) or 43.05 (Capias Pro Fine Shall Recite), Penal Code.

Requires the office of the attorney general to establish a transnational and organized crime division. Requires the transnational and organized crime division, in addressing matters related to border security and organized crime, to fulfill certain criteria.

Requires DPS to periodically:

- review the existing DPS’s existing information technology system to determine whether:
  - the system's security should be upgraded; and
  - the system provides DPS with the best ability to monitor and investigate criminal activity on the Internet; and
- make any necessary improvements to the DPS information technology system.

Authorizes DPS to hire officers with previous law enforcement experience or individuals who served four or more years in the United States armed forces and implement a 10-hour workday and 50-hour work week for commissioned officers of the department.

Authorizes the commission to provide for the establishment of a reserve officer corps consisting of retired or previously commissioned officers of DPS who retired or resigned in good standing. Requires the commission to establish qualifications and standards of training for members of the reserve officer corps. Authorizes the commission to limit the size of the reserve officer corps. Requires the director to appoint the members of the reserve officer corps. Provides that members serve at the director's discretion. Authorizes the director to call the reserve officer corps into service at any time the director considers it necessary to
have additional officers to assist DPS in conducting background investigations, sex offender compliance checks, and other duties as determined necessary by the director.

Requires DPS, in order to prevent the unlawful transfer of contraband from this state to the United Mexican States and other unlawful activity, to implement a strategy providing to federal authorities and to local law enforcement authorities working with those federal authorities at international border checkpoints assistance in the interdiction of weapons, bulk currency, stolen vehicles, and other contraband, as well as fugitives, being smuggled into the United Mexican States.

Requires DPS to establish a goal that, not later than September 1, 2019, all local law enforcement agencies will have implemented an incident-based reporting system and report to the legislature on its findings.

Requires the Texas Facilities Commission to build a multiuse training facility for Texas military forces and transfer ownership to DPS.

Requires the criminal justice division in the Office of the Governor of the State of Texas established under Section 772.006 (Governor's Criminal Justice Division), Government Code, to administer a competitive grant program to support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities. Requires that the grant program administered under this section be directed toward regions of this state that have demonstrably high levels of gang violence. Requires the criminal justice division to award grants to qualified applicants, as determined by the division, that demonstrate a comprehensive approach that balances gang prevention, intervention, and suppression activities to reduce gang violence.

Requires the sheriff's department of a county with a population of at least 700,000 but not more than 800,000 that borders the Texas-Mexico border and the police department of the municipality having the largest population in that county to jointly establish and operate the Texas Transnational Intelligence Center as a central repository of real-time intelligence relating to:

- autopsies in which the person's death is likely connected to transnational criminal activity;
- criminal activity in the counties along the Texas-Mexico border and certain other counties; and
- other transnational criminal activity in the state.

Requires certain law enforcement agencies, the Texas Alcoholic Beverage Commission, and the Texas Parks and Wildlife Department to report to the Texas Transnational Intelligence Center intelligence regarding certain criminal activity.

Provides that a person commits an offense if the person, with the intent to obtain pecuniary benefit, knowingly smuggles a person to enter or remain in the country. Sets forth penalties.

Provides that a person commits an offense if, during a period that is 10 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20.05 (Smuggling of Persons). Sets forth criteria for members of a jury relating to smuggling offenses.

Requires the lieutenant governor and the speaker of the house of representatives to create a joint interim committee to study border security. Requires the committee to be composed of members of the senate and the house of representatives.
Border Prosecution Unit—H.B. 12
by Representative Longoria et al.—Senate Sponsor: Senator Hinojosa

The border prosecution unit, which has formed a strategic partnership with the Department of Public Safety of the State of Texas (DPS) to achieve its goal of detecting threats localized to a particular region, county, or community and engaging the appropriate resources to dismantle and disrupt the criminal enterprises causing those threats, is currently not codified in statute. This bill:

Establishes a Border Prosecution Unit (unit) composed of certain prosecutors from the border region within the Criminal Justice Division (CJD) of the Office of the Governor.

Requires the unit to:
- meet annually and provide information related to border prosecutions;
- advise CJD on the allocation of border prosecution grants and the needs of border prosecuting attorneys, including the employment of regional counsel;
- facilitate collaboration with other law enforcement agencies;
- develop a nonexclusive list of offenses;
- serve as a clearinghouse of information;
- develop a training program for local law enforcement; and
- develop accountability and performance measures for grant recipients.

Authorizes CJD to apply for and accept gifts, grants, and donations from any organization described in Section 501(c)(3) or (4) of the Internal Revenue Code of 1986 for the purposes of funding any activity of the unit.

Surplus Motor Vehicle and Law Enforcement Equipment—H.B. 229
by Representatives Guillen and Muñoz—Senate Sponsor: Senator Zaffirini

Current law requires certain state agencies to report surplus and salvage property to the Texas Facilities Commission (TFC) for sale or public auction. Because of the rise of transnational criminal activity along the Texas-Mexico border, many underserved communities have an increased need for surplus law enforcement vehicles and equipment. This bill:

Authorizes TFC to transfer certain surplus property to municipal or county law enforcement agencies in economically disadvantaged area of this state at a price or for other consideration agreed to by TFC and the agency if TFC determines that the state’s efforts to secure this state's international border and combat transnational crime will sufficiently benefit from the donation of the property.

Prohibits a law enforcement agency that receives surplus property to sell the property before the second anniversary of the date the property is received.
Damages Arising From Emergency Training Exercises—H.B. 1666
by Representative Dennis Bonnen—Senate Sponsor: Senator Huffman

"Good Samaritan" laws limit liability when strangers help others in times of need or emergency. While volunteers during an actual emergency or disaster response are protected from liability under state law, volunteers and the volunteer organizations they work for are exposed to liability during planning, training, and exercises. This bill:

Amends Chapter 78 (Certain Fire Fighters and Fire-Fighting Entities), Civil Practice and Remedies Code, to provide that a person is not liable for damages resulting from the person's execution of a training exercise intended to prepare the person to respond to a fire or emergency to the same extent that the person would not be liable under this chapter for damages resulting from the person's actions in responding to a fire or emergency.

Amends Chapter 79 (Liability of Persons Assisting in Hazardous or Dangerous Situations), Civil Practice and Remedies Code, to provide that, except in a case of reckless conduct or intentional, wilful, or wanton misconduct, a person who is immune from civil liability for an act or omission that occurs in giving care, assistance, or advice with respect to the management of an incident under this chapter is immune from civil liability for an act or omission that occurs during the execution of a training exercise intended to prepare the person to give that care, assistance, or advice.

Duties of Emergency Medical Technician-Paramedics—H.B. 2020
by Representative Martinez et al.—Senate Sponsor: Senator Campbell

Although an emergency medical technician-paramedic is certified to provide care, current law prohibits a paramedic from providing advanced life support in a clinical setting. Interested parties contend that paramedics should be available as a resource for health care and facilities and emergency room physicians under certain circumstances. This bill:

Defines "advanced life support" and "direct supervision."

Authorizes an emergency medical technician-paramedic or a licensed paramedic to provide advanced life support in an emergency or urgent care clinical setting under certain conditions.

Multistate Compact Regarding Licensure of EMS Personnel—H.B. 2498
by Representatives Zerwas and "Mando" Martinez—Senate Sponsor: Senator Eltife

It is becoming more common for emergency services personnel to cross state lines to provide services in nondeclared states of emergency, which is making interstate cooperation for emergency medical services licensing more urgent. State and national stakeholders have developed an emergency medical services (EMS) licensing compact under which member states would agree to honor other jurisdictions' licenses as long as the license is issued in another member state in a manner consistent with the compact. This compact is similar to other compacts that apply to nursing and state driver's licenses. H.B. 2498 seeks to include Texas in the compact. This bill:
Provides that this state enacts the EMS Personnel Licensure Interstate Compact and enters into the compact with all other states legally joining in the compact.

Sets forth the language of the compact.

**Access to Criminal History Information by a County Sheriff—H.B. 2583**  
*by Representative Bell—Senate Sponsor: Senator Kolkhorst*

Under current law, on request of the department chief or chief executive of a fire department or an emergency medical services provider for an unincorporated area, a county fire marshal is entitled to obtain from the Department of Public Safety of the State of Texas the criminal history record of an applicant, employee, or member of that department or provider. Some counties do not have a county fire marshal. In such counties, it would be beneficial to grant a county sheriff the same entitlement. This bill:

Expands current law to grant county sheriffs the same access to and rights regarding criminal history record information.

**Definition of Homeland Security—H.B. 2827**  
*by Representative Phillips—Senate Sponsor: Senator Garcia*

Current law defines "homeland security activity," but it does not include activities relating to fire or medical emergencies. The inclusion of such emergencies in the definition is necessary to ensure that federal disaster relief may be sought for the provision of fire or medical emergency services. This bill:

Redefines "homeland security activity" to include a fire or medical emergency requiring resources beyond the capabilities of a local jurisdiction.

**Infectious Disease Preparedness and Response—H.B. 2950**  
*by Representative Klick et al.—Senate Sponsor: Senator Van Taylor*

The recent Ebola outbreak in Texas exposed a number of flaws in the state's readiness for infectious disease outbreaks. Preparing for future disease outbreaks will require coordination from numerous public and private entities, including hospitals, state health agencies, ambulance services, and other groups. This bill:

Creates the Task Force on Infectious Disease Preparedness and Response (task force) as an advisory board to the governor.

Requires the task force to provide expert, evidence-based assessments, protocols, and recommendations related to state responses to infectious diseases, including Ebola and serve as a reliable and transparent source of information and education for Texas leadership and citizens.

Authorizes the governor to appoint members of the task force as necessary, including members from relevant state agencies, members with expertise in infectious diseases and other issues involved in the
prevention of the spread of infectious diseases, and members from institutions of higher education in this state.

Requires the governor to make appointments to the task force as set forth and appoint a director of the task force from among the members of the task force.

Sets forth the duties of the task force.

Requires state agencies with members on the task force to provide administrative support for the task force.

**Fundraisers for Firefighter and Emergency Services Organizations—S.B. 31**  
*by Senator Zaffirini et al.—House Sponsor: Representative Guillen*  

Many volunteer fire departments (VFDs), which perform critical fire suppression and other related emergency services for local communities in Texas, depend on fundraisers for much of their operating revenue and need to maximize proceeds from those efforts. The relatively small amount of state sales tax revenue generated by local VFD fundraisers may be a significant percentage of the operating budget of a small VFD. S.B. 31 allows Texas volunteer firefighter and emergency services organizations to conduct up to 10 tax-free fundraisers during a calendar year. This bill:

Authorizes an organization that qualifies for an exemption under Section 151.310 (Religious, Educational, and Public Service Organizations), Tax Code, to hold 10 tax-free sales or auctions during a calendar year as long as the sale or auction does not last for not more than 72 hours. Provides that the storage, use, or consumption of a taxable item that is acquired from a qualified organization at a tax-free sale or auction is exempted from the use tax under the conditions set forth.

**Limiting Liability of Providers of Volunteer Health Care Services—S.B. 378**  
*by Senator Rodríguez—House Sponsor: Representative Sheffield*  

Social workers are the largest group of Red Cross mental health volunteers. In the aftermath of Hurricanes Katrina, Rita, and Ike, the Texas Chapter of the National Association of Social Workers coordinated the many requests for help and matched them with social workers from all over Texas. Chapter 84 (Charitable Immunity and Liability), Civil Practice and Remedies Code, provides immunity from civil liability to certain volunteer health care providers, such as physicians, nurses, and dentists. However, licensed social workers who may provide psychotherapy, assessment, diagnosis, and treatment are not included in the definition of "volunteer health care provider." This bill:

Expands the definition of "volunteer health care provider" to include a licensed social worker or a retired social worker who is eligible to engage in the practice of social work.
Designation of Rural Area for Financial Assistance Purposes—H.B. 74
by Representative Mary Gonzales—Senate Sponsor: Senator Zaffirini et al.

The Texas Department of Housing and Community Affairs must distinguish between rural and urban communities for the purpose of distributing federal low income housing tax credits. The existing definition of a rural area for this purpose is:

- an area that is not within the boundaries of a metropolitan statistical area (MSA); or
- an area that is within the boundaries of an MSA but has a population of fewer than 25,000 and does not share a border with an urban area.

Accordingly, a small community that borders an urban area within an MSA cannot qualify as rural, and is considered urban, which means that any small town that shares a border with that area also cannot qualify as rural according to the existing definition. This creates a chain of "urban areas" that are not truly urban, which prohibits characteristically rural towns and cities from receiving low-income housing tax credits that are reserved by the Texas Department of Housing and Community Affairs (TDHCA) only for rural areas. This bill:

Redefines "rural area" and "urban area."

Requires TDHCA by rule to provide for the designation by TDHCA of an area that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area as a rural area for purposes of receiving housing tax credits administered by TDHCA under this subchapter (Low Income Housing Tax Credit Program).

Requires that rules adopted:

- provide procedures by which a political subdivision or census-designated place may apply for a rural designation;
- provide guidelines for designating an area as rural, including specifying:
  - conditions under which a rural designation is not appropriate, including the proximity of the area to or the presence of major amenities commonly associated with urban or suburban areas; and
  - conditions under which a rural designation is appropriate, including areas with low population density, the proximity of the area to or the absence of major amenities commonly associated with urban or suburban areas, a high level of undeveloped land, a significant presence of unimproved roads, or significant agricultural activity; and
- ensure that any housing tax credits allocated to a designated rural area comply with applicable federal requirements regarding that assistance.

Disclosure of Home Mortgage Information to Surviving Spouse—H.B. 831
by Representatives Giddings and Keough—Senate Sponsor: Senator West

Current law does not outline a procedure for a surviving spouse who was not named to, or a party to, a home mortgage loan of the deceased spouse to obtain information regarding the loan from the mortgage loan servicer. Some mortgage companies require a form of judicial action for the surviving spouse to obtain
basic information regarding a home mortgage loan held in the name of the deceased spouse, which can prove costly and time-consuming for the surviving spouse. This bill:

Requires a mortgage servicer of a home loan, not later than the 30th day after the mortgage servicer receives a request for information from the surviving spouse of a mortgagor of the home loan that includes a required disclosure notice and is accompanied by required proof of the surviving spouse's status, to provide the surviving spouse with information that the mortgagor would have received in a standard monthly statement, including the current balance information, whether the loan is current and any amounts that are delinquent, any loan number, and the amount of any escrow deposit for taxes and insurance purposes.

Sets forth the information required to be submitted as proof of the surviving spouse's status and grants a mortgage servicer that provides the required information to the surviving spouse immunity from liability to the estate of the mortgagor or any heir or beneficiary of the mortgagor.

**Restrictive Covenants Regarding Standby Electric Generators—H.B. 939**

*by Representative Dale et al.—Senate Sponsor: Senators Larry Taylor and Hinojosa*

Homeowners residing in some areas governed by property owners’ associations are currently prohibited from using standby electric generators at their homes. Interested parties have raised concerns regarding residents being unable to use medical devices and other electrical monitoring equipment after a power outage caused by a catastrophic storm or overload on the Texas power grid. This bill:

Prohibits a property owners’ association (POA) from adopting or enforcing a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from owning, operating, installing, or maintaining a permanently installed standby electric generator.

Authorizes a POA to adopt and enforce provisions in its dedicatory instruments to require that such a generator meet certain conditions set forth.

Authorizes a POA to prevent the owner from using the generator to generate all or substantially all of the power to a home, except during periods when power is unavailable or intermittently available from the utility.

Requires that a party asserting noncompliance bear the burden of proof in the event of a hearing, action, or proceeding to determine whether a proposed or installed generator complies with a POA requirement.

Provides that if the generator was installed by a licensed contractor or approved by a political subdivision, it is conclusive proof that the generator was installed in compliance with the POA regulation.

**Eligibility to Serve on the Board of a Property Owners’ Association—H.B. 1072**

*by Representative Senfronia Thompson—Senate Sponsor: Senator Ellis*

Recently enacted legislation made a property owners’ association board member immediately ineligible to serve on, automatically considered removed from, and prohibited from future service on the board for a
prior conviction of a felony or crime involving moral turpitude. Interested parties contend that creating a permanent bar against a property owner's ability to participate in the community is excessive, especially if the property owner has not been convicted of a felony or crime involving moral turpitude within the last 20 years. This bill:

Authorizes a person who was convicted of a felony or crime involving moral turpitude to serve as a board member of a property owners' association if the conviction occurred more than 20 years before the board received evidence of the conviction.

**Seller's Disclosure in Connection With Certain Property—H.B. 1221**

*by Representative Lucio III—Senate Sponsor: Senator Estes*

A seller of residential real property located in Texas is required to give the purchaser of the property a written notice detailing the property's condition, which includes, but is not limited to, the disclosure of known defects, repairs made without necessary permits, and whether the property is subject to a homeowners' association. Disclosure of these items better informs a potential buyer of the condition of the property and what the buyer may encounter after closing. Under current law, a seller is not required to disclose whether the real property is located in an area subject to groundwater regulation, despite the significant impact this may have on the buyer's ability to draw groundwater. This bill:

Requires that a seller's disclosure notice regarding residential real property with a single dwelling unit indicate whether the seller is aware if any portion of the property is located in a groundwater conservation district or a subsidence district.

**Administration of Housing Funds for Persons With Disabilities—H.B. 1428**

*by Representatives Raymond et al. —Senate Sponsor: Senator Zaffirini*

The Homebuyer Assistance Program (HBA) under the Texas Department of Housing and Community Affairs (TDHCA) is one of the only assistance programs that exists solely to help persons with disabilities realize the dream of homeownership. Recent program rule changes at TDHCA affected the HBA process by requiring applicants to be in a final contract on a house before they can receive down payment assistance. This process, however, does not provide for a pre-approval process or a guarantee that the money promised to an applicant will be reserved while the final contract is obtained. By the time applicants enter the final phases of the home-buying process, funds are often depleted, causing applicants to lose upfront costs invested in the contracting process and the contracts altogether. Allowing applicants to apply for the HBA program before entering into a housing contract would prevent applicants from losing upfront costs. This bill:

Provides that, in administering funds that are set aside for persons with disabilities under Subsection (c)(2) (relating to the allocation of set-aside funds) and allocated through the homebuyer assistance program, the Texas Department of Housing and Community Affairs (TDHCA): is prohibited from requiring a person to enter into a contract to purchase a home before applying for or receiving funds allocated through the program, and by rule is required to implement a preapproval process under which a person:

- before funds allocated through the program are made available, may establish eligibility to receive those funds; and
• has an adequate period of at least 90 days in which to locate a home for purchase using funds made available under the program.

Requires TDHCA to adopt rules regarding the program not later than December 31, 2015.

**Initiating Suit or Arbitration by Condominium Association—H.B. 1455**

*by Representatives Phil King and Burrows—Senate Sponsor: Senators Creighton and Huffines*

Currently, a condominium association may file a suit or initiate an arbitration proceeding for defects or design claims without informing residents or condominium owners. The pendency of these claims can have an adverse effect on resale value and overall marketability of these properties. This bill:

Adds Section 82.119 (Procedures for Filing Suit or Initiating Arbitration Proceedings for Defect or Design Claims for Certain Associations) to the Property Code.

- Exempts an association with less than eight units.
- Provides that in addition to any preconditions to filing suit or initiating an arbitration proceeding included in the declaration, an association, before filing suit or initiating an arbitration proceeding pertaining to the construction or design of a unit or the common elements, must obtain:
  - an inspection and a written independent third-party report (report) from a licensed professional engineer that includes specific information; and
  - approval from unit owners holding more than 50 percent of the total votes allocated under the declaration, at a regular, annual, or special meeting (meeting).
- Requires that the association provide written specific notice of the inspection to each party subject to a claim not later than the 10th day before the date the inspection occurs.
- Authorizes any party subject to a claim to attend the inspection.
- Requires the association, before providing the notice of the meeting, to:
  - provide the report to each unit owner and each party subject to a claim; and
  - allow each party subject to a claim to at least 90 days after the date of completion of the report to inspect and correct any condition identified in the report.
- Sets forth the notice requirements regarding the meeting, including a statement that initiating a lawsuit or arbitration proceeding may affect the market value, marketability, or refinancing of a unit while the claim is prosecuted.
- Provides that the period of limitations for filing a suit or initiating an arbitration proceeding is tolled until the first anniversary of the date the procedures are initiated by the association if the procedures are initiated during the final year of the applicable period of limitation.
- Authorizes that a declaration may provide that a claim pertaining to the construction or design of a unit or the common elements must be resolved by binding arbitration.
- Provides that an amendment to the declaration that modifies or removes the arbitration requirement may not apply retroactively to a claim under this section.
Liability for Leasing to Persons With Criminal Records—H.B. 1510  
by Representative Senfronia Thompson—Senate Sponsor: Senators Garcia and Watson

The vast majority of landlords employ criminal background checks to screen rental property applicants. Because housing stability has been identified as one of the most critical factors in preventing recidivism and parole violations. Increasing the housing options for formerly incarcerated individuals may help alleviate the homeless population in Texas. This bill:

Provides that a cause of action does not accrue against a landlord or a landlord's manager or agent solely for leasing a dwelling to a tenant convicted of, or arrested or placed on deferred adjudication for, an offense.

Exempts a cause of action for negligence in leasing if the tenant was convicted of or adjudicated for certain violent or sexual offenses and the person against whom the action is filed knew or should have known of the conviction or adjudication.

Provides that this Act does not create a cause of action or expand an existing cause of action.

Authorizing Storage Containers for Evicted Tenants' Possessions—H.B. 1853  
by Representative Button et al.—Senate Sponsor: Senator Huffines

The Texas Property Code provides a process for a landlord to take possession of a property after a successful eviction. Property removed from the premises by the authorities is placed outside at a nearby location that does not block a road or sidewalk and cannot be placed outside during rain, sleet, or snow.

Advocates of H.B. 1853 have observed that evicted tenants' possessions are subject to theft and vandalism in this situation and may end up littering the surrounding area. This bill:

Authorizes a municipality to provide a portable, closed container for personal property removed from a rental unit by an officer under a writ of possession issued in an eviction suit. Provides for the disposal of the contents by the municipality if the owner does not recover the property.

Records Related to Nonjudicial Foreclosure Sales—H.B. 2063  
by Representative Oliveira—Senate Sponsor: Senator Zaffirini

Current law relating to the sale of real property under a contract lien sets out requirements for notice of the sale. Advocates note that notices of trustees who are appointed by a mortgage servicer to make a sale during a foreclosure are often received after the legal deadline, which, due to the foreclosure process, leads to extraneous documents, notarizations, and document record dates. They contend that such duplicative and extraneous records cause confusion in public property title records that may lead to litigation. This bill:

Requires the county clerk to receive and record certain documents set forth.
Provides that the appointment of a trustee made in a notice of sale is effective as of the date of the notice.

**Rescission of Certain Foreclosure Sales—H.B. 2066**  
*by Representatives Oliveira and Fallon—Senate Sponsor: Senator Watson*

Certain conditions that are unknown at the time of a non-judicial foreclosure sale may affect the ability to convey title for the property. Such conditions include a cure to the default that led to the sale or the existence of a court-ordered stay of the sale that was issued in a related bankruptcy case. Current law does not provide an adequate procedure to reverse a sale and restore the involved parties to their pre-sale positions without litigation or signed agreements. This bill:

- Authorizes a mortgagee or trustee to rescind a foreclosure sale not later than the 15th day after the sale if certain conditions are met.
- Requires the rescinding party to serve a written notice of rescission that describes the reason for the rescission. Requires the rescinding party to post a rescinding notice in the real property records of the county in which all or part of the property is located.
- Requires the mortgagee to return to the purchaser the amount of the bid paid by the purchaser for the property sale.
- Provides that the rescission of a foreclosure sale restores the mortgagee and the debtor to their respective title, rights, and obligations.
- Provides that no action challenging the effectiveness of a rescission may be commenced unless the action is filed on or before the 30th calendar day after the date the notices of rescission are filed for recording.

**Providing a Waiver for Loan Acceleration—H.B. 2067**  
*by Representative Oliveira—Senate Sponsor: Senator Zaffirini*

Before a lender can foreclose on a mortgage, it often must first accelerate the loan. Lenders and borrowers usually work out an arrangement to rescind the acceleration so borrowers can stay in their homes. Texas law does not provide a clear method for rescinding an accelerated loan. This bill:

- Provides for the rescission or waiver of an acceleration of the maturity date of certain debt secured by a lien on real property.

**Disclosures Regarding Timeshares—H.B. 2261**  
*by Representatives Villalba and Phil King—Senate Sponsor: Senator Hinojosa*

A "timeshare interest" is an arrangement under which the purchaser receives a right to occupy a timeshare property. Interested parties have observed that timeshare owners are being defrauded by transfer and exit companies that solicit timeshare owners to relieve them of maintenance fees, taxes, and other ownership obligations. Such companies often require payment in advance and use misleading sales techniques. After
collecting payment, these companies do not follow through with the transfer, convincing the customer that their purported buyer has backed out or become unreachable. This bill:

Requires a person entering into an agreement with a timeshare interest owner to facilitate the transfer or termination of that interest to provide certain disclosures, including: their name and contact information; a description of the timeshare; a description of the method of transfer or termination; a description of any interest the timeshare owner retains after the transfer; an itemized statement of any amounts that the owner is required to pay for services related to transferring or terminating the timeshare; and the estimated date for completion of all services related to transferring or terminating the timeshare.

Requires such a person to disclose that the timeshare owner is not required to pay any reimbursement for services until they have received: a written acknowledgement from the recipient of the transferred timeshare ownership that the transfer agent has complied with applicable law; and a copy of the county real estate record that shows the transfer of ownership.

Requires such a person to act in good faith to complete the transfer or termination transaction within 180 days after the date the person enters into an agreement with the timeshare owner.

Rekeying Tenant Properties—H.B. 2404

by Representative Rodney Anderson—Senate Sponsor: Senator Eltife

Under current law a landlord must rekey door locks or other security devices when a tenant vacates the premises in breach of the lease. Advocates contend that a landlord should have the authority to deduct the cost for rekeying such devices from the security deposit of the vacating tenant. This bill:

Authorizes a landlord to deduct from the tenant's security deposit a reasonable cost to rekey a security device if the lease authorizes the deduction.

Privacy of Rental Applicants—H.B. 2489

by Representative Leach—Senate Sponsor: Senator Eltife

Current law does not adequately provide safeguards against the interference of a property owners' association with regard to the leasing or rental of a homeowner's private property within that association. Advocates contend that the lack of regulation in this area could allow property owners' associations to take actions that interfere with an individual's private property rights. This bill:

Prohibits a property owners' association from adopting or enforcing a provision that requires approval by the association of a rental applicant or that requires a credit report or rental application to be filed with the association.

Authorizes the redaction of certain private information about a rental applicant if a copy of the rental agreement is required by the association.
Residential Rental Assistance Projects Financed by Private Activity Bonds—H.B. 2878
by Representative Márquez—Senate Sponsor: Senator Rodríguez

Chapter 1372 of the Government Code currently permits the submission of an application for tax-exempt private activity volume cap for qualified residential rental facilities located at multiple sites only if no other applications are submitted from the same county for projects located in that county. Consequently, an issuer cannot submit more than one application in the same calendar year that combines multiple sites into a single project application. This bill:

Provides that an applicant for a qualified residential rental project bond may aggregate more than one qualified residential rental project into a single, combined project as part of the participation of the housing authority for the applicable municipality in the Rental Assistance Demonstration program administered by the U.S. Department of Housing and Urban Development, as specified by the federal Consolidated and Further Continuing Appropriations Act of 2012 and its subsequent amendments, if the combined project is related to the municipal housing authority’s conversion of public housing units as permitted under that program. Makes this provision applicable only to an applicant that was created by a municipality that is adjacent to an international boundary of Texas and that is located in a county with a population of more than 800,000.

Adds an exception to the requirement that an application for a reservation of a portion of the state ceiling for a specific bond issue or for a carryforward designation of a portion of the state ceiling be accompanied by a $500 nonrefundable fee, requiring an application for a combined project that includes multiple qualified residential rental projects authorized under the bill to be accompanied instead by a nonrefundable $5,000 fee for each qualified residential rental project included in the application for the combined project, of which amount the Bond Review Board is required to retain 20 percent to offset the costs of the private activity bond allocation program and the administration of that program and to transfer the remaining 80 percent through an interagency agreement to the Texas Department of Housing and Community Affairs for use in the affordable housing research and information program.

Low Income Housing Tax Credits—H.B. 2926
by Representative Anchia and Blanco—Senate Sponsor: Senator Hinojosa

There are over 400 public housing agencies (PHAs) in Texas that manage nearly 60,000 public housing units. These units have rents based on the resident’s ability to pay and typically serve Texans who earn less than 30 percent of the area median income (AMI). These units are often 30 to 70 years old and in need of major renovation, and in many areas, public housing communities are the only affordable housing resource for families, seniors, and persons with disabilities.

Refurbishing units such as these can be difficult because PHAs generally have limited access to financial resources to fund capital improvements for public housing residences. This is partly because operating subsidies and tenant rents cannot be used to service the debt needed to rehabilitate existing buildings. As a result, there is a very real probability that these properties will continue to degrade and ultimately face closure due to physical deterioration. Nationally, the affordable housing industry calculates that $30 billion is needed to address the nation’s capital improvement needs for public housing units, but the United States (U.S.) Department of Housing and Urban Development (HUD) only provides approximately $2 billion
annually. The Housing Tax Credit (HTC) program is a federal program administered by the Texas Department of Housing and Community Affairs (TDHCA).

Current federal law considers certain kinds of investments in affordable housing units for the purpose of allocating housing tax credits. These tax credits are competitively awarded by TDHCA. Within the HTC program are certain statutorily mandated "set-asides," which TDHCA is required to allocate. These are differing types of developments, which, for example, include set asides for nonprofit housing developers, housing developments that are funded by the U.S. Department of Agriculture, and investment in housing units that are "at-risk" of being removed from the housing pool. This bill:

Defines "at-risk development" to include a development that proposes to rehabilitate or reconstruct housing units that receive assistance or will receive assistance through the Rental Assistance Demonstration program administered by the United States Department of Housing and Urban Development as specified by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55) and its subsequent amendments, if the application for assistance through the Rental Assistance Demonstration program is included in the applicable public housing authority's annual plan that was most recently approved by the United States Department of Housing and Urban Development as specified by 24 C.F.R. Section 903.23.

Fire Protection Sprinkler Systems—H.B. 3089
by Representative Galindo et al.—Senate Sponsor: Senator Menéndez

Citing recent events, including a fire at a high-rise residential center where several lives were lost, interested parties contend that certain residential high-rise buildings need to be retrofitted with fire protection sprinkler systems to provide safety and prevent such incidents in the future. This bill:

Requires a residential high rise building in Bexar County in which a certain percentage of the residents are elderly individuals, individuals with a disability, or individuals with a mobility impairment and that is not designated as a historically or archaeologically significant site to be equipped with a complete fire protection sprinkler system.

Requires the adoption of sprinkler system standards and provides for a phase-in for compliance, as well as penalties for noncompliance.

Low Income Housing Tax Credit for Elderly Persons—H.B. 3311
by Representative Alvarado—Senate Sponsor: Senator Nichols

With the senior population rapidly growing in Texas, the need for affordable housing options specifically designed with elevators, grab bars, and special common spaces for supportive services for seniors will be of the utmost importance. Interested parties have asserted that the current program for allocating low income housing tax credits benefits family projects over developments for seniors. This bill:

Requires the Texas Department of Housing and Community Affairs (TDHCA), if an application satisfies the threshold criteria, to score and rank the application using a point system that fulfills certain criteria. Requires that the application use criteria imposing penalties on applicants or affiliates who have requested
extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement and encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested.

Requires TDHCA, in evaluating the level of community support for an application under provisions of the bill, to award positive points for positive written statements received, negative points for negative written statements received, and zero points for neutral statements received.

Prohibits the governing board of TDHCA, notwithstanding Section 2306.6710(d) (authorizes TDHCA to underwrite the applications ranked under this section beginning with the applications with the highest scores in each region described as set forth), and except as necessary to comply with the nonprofit set-aside required by Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)), from allocating to developments reserved for elderly persons and located in an urban subregion of a uniform state service region a percentage of the available housing tax credits allocated to developments located in that subregion that is greater than the percentage that results from the formula set forth, unless there are no other qualified applicants in that region. Sets forth the formula and applicable definitions.

Requires TDHCA, in allocating low income housing tax credits, to score each application using a point system based on criteria adopted by the department that are consistent with the department’s housing goals, including criteria addressing the ability of the proposed project to address certain criteria.

Requires TDHCA, for each scoring criterion, to use a range of points to evaluate the degree to which a proposed project satisfies the criterion. Prohibits TDHCA from awarding to a proposed project for the general population a number of points for a scoring criterion that is different than the number of points awarded for that criterion to a proposed project reserved for elderly persons if the proposed projects comply with the criterion to the same degree.

Requires TDHCA, in establishing for the 2016 and 2017 qualified allocation plans the scoring criterion related to the commitment of development funding by local political subdivisions, to significantly reduce for each place regardless of population the amount in funding, per low income unit, that is required for a proposed project to receive the applicable number of points for that criterion. Provides that the amount of required funding, after the reduction, may be a de minimis amount.

**Low Income Housing Tax Credits for Certain Developments—H.B. 3535**

*by Representative Collier et al.—Senate Sponsor: Senator Menéndez*

The Texas Department of Housing and Community Affairs administers a housing tax credit program as a means of directing private capital toward the development and preservation of affordable rental housing for low income households. Under this program tax credits are awarded to eligible participants to offset a portion of their federal tax liability in exchange for the development or preservation of affordable rental housing. Given the need for such credits in regions with a high poverty rate, interested parties are concerned that there is an insufficient level of tax credits used for developments in those areas. This bill:
Requires the governing board of the Texas Department of Housing and Community Affairs, except as necessary to comply with the nonprofit set-aside required by Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)), in an urban subregion of a uniform state service region that contains a county with a population of more than 1.7 million, to allocate housing tax credits to the highest scoring development, if any, that is part of a concerted plan of revitalization and is located in that urban subregion in a municipality with a population of 500,000 or more.

**Use, Transfer, and Sale of Certain Housing Developments—H.B. 3576**

*by Representative Alvarado—Senate Sponsor: Senator Menéndez*

Currently, there is a disincentive to owners who want to retain and preserve their affordable housing properties and there is undue restriction on the ability of nonprofit organizations and governmental agencies to acquire and preserve affordable housing properties. This bill:

Requires the Texas Department of Housing and Community Affairs (TDHCA) to adopt rules that provide for the amendment of a land use restriction agreement. Requires that rules adopted require reasonable notice to tenants, a public hearing, and the governing board of TDHCA (board) approval for any material amendment to a land use restriction agreement.

Provides that certain sections, including Sections 2306.185(d-1) (relating to requiring TDHCA to adopt rules) and Section 2306.269 (Tenant and Manager Selection), Government Code, apply only to multifamily rental housing developments to which TDHCA is providing one or more certain forms of assistance as set forth.

Provides that the transfer of ownership of a development supported with an allocation of housing tax credits under Section 2306.6713 (Housing Tax Credit and Ownership Transfers), Government Code, does not subject the development to a right of first refusal under Section 2306.6726 (Sale of Certain Low Income Housing Tax Credit Developments), Government Code, if the transfer is made to a newly formed entity that is under common control with the development owner and the primary purpose of the formation of which is to facilitate the financing of the rehabilitation of the development using assistance administered through a state financing program.

Provides that each material representation made by an applicant to secure a housing tax credit allocation is enforceable by TDHCA and the tenants of the development supported with the allocation. Provides that, subject to modification and enforcement as provided by Chapter 2306 (Texas Department of Housing and Community Affairs), Government Code, a land use restriction agreement that is recorded with respect to a development is considered to state the development owner’s ongoing obligations with regard to the matters addressed in the agreement.

Requires TDHCA to provide appropriate incentives as determined through the qualified allocation plan to reward applicants who agree to equip the development that is the basis of the application with energy saving devices that meet the standards established by the state energy conservation office or provide to a qualified entity, in a land use restriction agreement in accordance with Section 2306.6726, Government Code, a right of first refusal to purchase the development at the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)).
Requires an owner of a development subject to a right of first refusal under Section 2306.6725 (Scoring of Applications) who intends to sell the development at any time after the expiration of the compliance period to notify TDHCA and the tenants of the development of the owner's intent to sell and, if applicable, to specifically identify to TDHCA any qualified entity that is the owner's intended recipient of the right of first refusal in the land use restriction agreement. Requires TDHCA to fulfill certain obligations after receiving notice.

**Forms for Use in Landlord-Tenant Matters—S.B. 478**
*by Senator Zaffirini—House Sponsor: Representative Senfronia Thompson*

Disputes between landlords and tenants frequently occur on uneven playing fields, which lead many Texans to endure deplorable living conditions, evictions, or even homelessness. While a large percentage of landlords have lawyers or sophisticated management companies representing them in court, a majority of tenants have no choice but to represent themselves. Because tenants are often intimidated and do not know their rights, they generally enter into agreements that they do not understand and cannot fulfill. This bill:

Requires the Supreme Court of Texas, as the court finds appropriate, to promulgate forms for use by individuals representing themselves in residential landlord-tenant matters and instructions for the proper use of each form or set of forms.

Requires that the forms and instructions:
- be written in plain language that is easily understood by the general public;
- clearly and conspicuously state that the form is not a substitute for the advice of an attorney;
- be made readily available to the general public in the manner prescribed by the supreme court; and
- be translated into the Spanish language, and that the Spanish language translation of the form either state that the Spanish language-translated form is to be used solely for the purpose of assisting in understanding the form and may not be submitted to the court, and that the English version of the form must submitted to the court; or be incorporated into the English language form in a manner that is understandable to both the court and members of the public.

Requires the clerk of a court to inform members of the public of the availability of the form as appropriate and make the form available free of charge.

**Texas Interagency Council for the Homeless—S.B. 607**
*by Senator Hancock—House Sponsor: Representative Alvarado*

In 1995, the 74th Legislature, Regular Session, established the Texas Interagency Council for the Homeless (TICH). The legislation requires TICH to coordinate the state's resources and services to address homelessness. TICH also serves as an advisory committee to the Texas Department of Housing and Community Affairs (TDHCA). Representatives from 11 state agencies sit on the council along with members appointed by the governor, lieutenant governor, and speaker of the house of representatives. Portions of state law relating to TICH have not been updated since initial passage of the enabling legislation, which has caused some difficulty in conducting board meetings and providing resources to member agencies. This bill:
Provides that TICH is composed of:

- one representative from each of the following agencies, appointed by the administrative head of that agency:
  - the Department of State Health Services;
  - the Department of Aging and Disability Services;
  - the Department of Family and Protective Services;
  - the Texas Juvenile Justice Department;
  - the Department of Assistive and rehabilitative Services; and

- two representatives from the Texas Department of Housing and Community Affairs (TDHCA) who are appointed by the executive director of TDHCA (director), including at least one representative whose duties include management or administration of the community services block grant program or the emergency solutions grant program, rather than two representatives from TDHCA, one each from the community affairs division and the housing finance division, appointed by the director of TDHCA.

Requires TDHCA to provide clerical and advisory support staff and authorizes TDHCA to provide fiscal support to TICH.

Authorizes TICH and each of its represented agencies to seek program or policy assistance from the Texas Homeless Network in accomplishing TICH's duties.

Requires each represented agency to contribute resources to TICH unless the agency certifies in writing that the agency is unable to contribute resources during that fiscal period.

Provides that only a member of TICH who resides 20 or more miles away from the location of a TICH meeting is authorized to participate remotely in the meeting by telephone conference call, videoconference, or other similar telecommunication method permitted under Chapter 551 (Open Meetings), Government Code.

Property Owners' Association Election—S.B. 862

by Senator Birdwell—House Sponsor: Representative Keffer

Chapter 209 (Texas Residential Property Owners Protection Act), Property Code, is unclear on whether property owners' association boards are required to offer more than one method of voting in an election. Offering more than one method could amount to a considerable cost to the association. This bill:

Provides that, unless a dedicatory instrument provides otherwise, a property owners' association is not required to provide an owner with more than one voting method so long as an owner may vote by absentee ballot or proxy.

Secret Ballots in a Property Owners' Association Election—S.B. 864

by Senator Birdwell—House Sponsor: Representative Keffer

Current law requires that members of a property owners' association (POA) sign their names to any vote cast. This provision effectively makes a vote cast by secret ballot no longer anonymous. This bill:
Authorizes a property owners' association to adopt rules to allow voting by secret ballot by members of the association, provided that the association takes measures to reasonably ensure that a member cannot cast more votes than the member is eligible to cast, and the association counts every vote cast by a member that is eligible to cast a vote.

**Operation of Certain Property Owners' Associations—S.B. 1168**  
by Senator West—House Sponsor: Representative Villalba

During the 82nd Legislature, Regular Session, 2011, a number of bills amending provisions of Chapter 209 (Texas Residential Property Owners Protection Act), Property Code, were passed into law that inadvertently left certain ambiguities and contradictions unaddressed, presenting significant operational and technical concerns for property owners' associations in the implementation of these changes. Since that time, the boards of numerous property owners' associations (POAs) have noted a lack of clarity regarding several issues, including the procedure for recounting votes of association elections, notice procedures to property owners, and the expedited foreclosure process and payment plans. This bill:

Provides that the resale certificate required to be issued by a POA to a unit owner if the unit owner intends to sell the unit must contain certain information, including statements of:

- the POA's current operating budget and balance sheet; and
- all fees payable to the POA or an agent of the POA that are associated with the transfer of ownership, including a description of each fee, to whom the fee is paid, and the amount of the fee.

Authorizes a POA to send notice regarding foreclosure actions to any lienholder of record on the property, not only subordinate lienholders as required by current law.

Specifies that a POA is considered to have any power of sale required to use the expedited foreclosure process allowed under the Texas Rules of Civil Procedure if the POA has a dedicatory instrument granting a right of foreclosure, provided that the POA obtains a court order in the application for an expedited foreclosure. Authorizes an eligible POA to elect to seek a judicial foreclosure instead.

Provides that a POA board meeting may be held electronically or by phone if every board member can hear and be heard by every other board member, owners are allowed to listen, and the notice of the meeting provides relevant instructions for the owners.

Authorizes the board to take actions outside of a meeting if all board members are given reasonable time to vote and express their opinions to other board members. Expands the list of matters that the board is authorized to consider and vote on outside of an open meeting requiring notice.

Modifies voting procedures for POA members, including procedures related to vote recounts.

Provides that the written notice required to be sent by a POA before the POA can take certain enforcement actions against an owner for a violation may be sent to an owner by verified, rather than certified, mail. Provides that "verified mail" refers to any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier.
Requires that the notice specify a reasonable date by which the owner is required to cure the violation. Provides that, if the owner cures the violation before the deadline, no fine may be assessed by the POA.

Provides that curable violations include parking violations or an ongoing noise violation, such as a barking dog. Provides that a violation is uncurable if it occurs but is not a continuous action or a condition capable of being remedied by affirmative action. Provides that uncurable violations include shooting fireworks or property damage.

**Texas SAFE Act of 2009—S.B. 1203**

_by Senator Rodriguez—House Sponsor: Representative Pickett_

The Texas Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act of 2009 exempts from licensure nonprofit organizations that provide self-help housing programs, but only if the borrowers in these programs obtain zero interest residential mortgage loans. Although mortgage loans made to borrowers in these programs are generally made at low rates, very few are zero interest loans. As a result, the zero interest exemption criteria imposes burdensome licensing requirements on nonprofit entities engaged in self-help homebuilding or requires these nonprofits to direct their clients to unaffiliated licensed mortgage loan originators who may not be as familiar with the self-help homebuilding programs. Interested parties contend that nonprofit organizations offering these programs would be able to serve their clients more efficiently if their employees could originate mortgage loans for borrowers in their programs. This bill:

Provides that certain entities are exempt from the Residential Mortgage Loan Company Licensing and Registration Act, including a nonprofit organization that has a designation as a Section 501(c)(3) organization by the Internal Revenue Service and originates residential mortgage loans for borrowers who, through a self-help program, have provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan.

Provides that employees of certain entities, when acting for the benefit of those entities, are exempt from the licensing and other requirements of the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act applicable to residential mortgage loan originators, including a nonprofit organization that has designation as a Section 501(c)(3) organization by the Internal Revenue Service and originates residential mortgage loans for borrowers who, through a self-help program, have provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan.

Removes an exemption from the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009 for a nonprofit organization providing self-help housing that originates zero-interest residential mortgage loans for borrowers who have provided part of the labor to construct the dwelling securing the loan.

**Regulating Industrialized Housing and Buildings—S.B. 1264**

_by Senator Eltife—House Sponsor: Representative Kuempel_

Current law limits the maximum number of stories and height that an industrialized home or building can be built to three stories or 49 feet. S.B. 1264 amends the Occupations Code to increase the maximum height allowed for industrialized housing and buildings to four stories or 60 feet in height. This bill:
Provides that industrialized housing under Section 1202.002 (Definition of Industrialized Housing), Occupations Code, does not include a residential structure that exceeds four stories or 60 feet in height, rather than three stories or 49 feet in height.

Provides that an industrialized building under Section 1202.003 (Definition of Industrialized Building), Occupations Code, includes a permanent commercial structure and a commercial structure designed to be transported from one commercial site to another commercial site but does not include a commercial structure that exceeds four stories or 60 feet in height, rather than three stories or 49 feet in height.

**Low Income Housing Tax Credits for At-Risk Developments—S.B. 1315**

*by Senators Watson and Zaffirini—House Sponsor: Representative Anchia*

The current definition of at-risk developments provides that only projects that have federally insured debt can compete in the at-risk set-aside. However, projects that received HUD 202 funds, a program that no longer exists, have HUD-Held debt and are excluded from competing for funds. This bill:

Redefines "at-risk development" to include a development in which the HUD-insured or HUD-held mortgage on the development is eligible for prepayment or is nearing the end of its term.

**Application for a Low Income Housing Tax Credit—S.B. 1316**

*by Senator Watson—House Sponsor: Representative Alvarado*

Affordable housing projects are awarded federal tax credits based on a scoring system in a Qualified Allocation Plan (QAP) issued by the Texas Department of Housing and Community Affairs. Under the current QAP, an affordable housing project receives points on its application if the local political subdivision, such as the city in which it is located, commits a certain level of funding for the project. This bill:

Requires the Texas Department of Housing and Community Affairs (TDHCA), in evaluating the level of community support for an application under the bill, to award positive points for positive written statements received, negative points for negative written statements received, and zero points for neutral statements received.

Requires TDHCA, in allocating low income housing tax credits, to score each application using a point system based on criteria adopted by TDHCA that are consistent with TDHCA housing goals, including criteria addressing the ability of the proposed project to:

- provide quality social support services to residents;
- demonstrate community and neighborhood support as defined by the qualified allocation plan;
- consistent with sound underwriting practices and when economically feasible, serve individuals and families of extremely low income by leveraging private and state and federal resources, including federal HOPE VI grants received through the United States Department of Housing and Urban Development;
- serve traditionally underserved areas;
- demonstrate support from local political subdivisions based on the subdivisions' commitment of development funding;
• rehabilitate or perform an adaptive reuse of a certified historic structure as part of the development;
• remain affordable to qualified tenants for an extended, economically feasible period; and
• comply with the accessibility standards that are required under certain federal laws.

Requires TDHCA, in establishing for the 2016 and 2017 qualified allocation plans the scoring criterion related to the commitment of development funding by local political subdivisions, to significantly reduce for each place regardless of population the amount in funding, per low income unit, that is required for a proposed project to receive the applicable number of points for that criterion. Provides that, after the reduction, the amount of required funding may be a de minimis amount.

Certain Obligations of and Limitations on Landlords—S.B. 1367
by Senator West—House Sponsor: Representatives Anchia and Oliveira

If a tenant damages a rental property secured by a security deposit, the landlord has 30 days after the tenant surrenders the premises to return the balance of the security deposit, if any, with a list of itemized deductions for such damage. If the property was not secured by a security deposit, there is no obligation under current law to notify the tenant of any claims for damages. Tenants are sometimes unaware the landlord is claiming that they owe damages until they see their credit report, which can be months or years later. This bill:

Expands the list of methods for delivering a notice to vacate to include securely affixing to the outside of the main entry door a sealed envelope that contains the notice and on which is written the tenant's name, address, and in all capital letters, the words "IMPORTANT DOCUMENT" or substantially similar language and, not later than 5 p.m. of the same day, depositing in the mail in the same county in which the premises in question is located a copy of the notice to the tenant under certain circumstances set forth.

Amends Section 54.046 (Violation by Landlord), Property Code, to provide that if a landlord or the landlord's agent wilfully violates Subchapter C (Residential Landlord's Lien), Chapter 54, Property Code, the tenant is entitled to actual damages, return of any property seized that has not been sold, return of the proceeds of any sale of seized property, and the sum of one month's rent and $1,000, rather than the greater of one month's rent or $500, less any amount for which the tenant is liable, and reasonable attorney's fees.

Provides that notice given by a tenant to trigger the liability of a landlord with regard to the need for repair on the property may be delivered by a form of mail that allows tracking of delivery from the United States Postal Service or a private delivery service, rather than only certified mail, return receipt requested, or registered mail.

Provides that, if an owner's interest in the premises is terminated by sale, assignment, death, appointment of a receiver, bankruptcy, or otherwise, the person who no longer owns an interest in the rental premises is liable for a security deposit received while the person was the owner until the new owner has received the deposit or has assumed the liability for the deposit as set forth, unless otherwise specified by the parties in a written contract.
Requires a landlord to notify a tenant in writing, if the tenant was not required to pay a security deposit, of any claim for damages or charges before the landlord reports the claim to a consumer reporting agency or a third-party debt collector.

Provides that if the landlord does not notify the tenant before reporting the claim, the landlord forfeits the right to collect damages and charges from the tenant. Provides that the notice is not required if the tenant did not leave a forwarding address.

**Regulation of Solar Energy Device Installation—S.B. 1626**  
*by Senator Rodríguez—House Sponsor: Representative Dukes*

Neighborhoods that are still not fully built are considered to be in the "development phase" and are typically under management of the homebuilder or developer prior to being turned over to an independent Property Owners Association (POA). Developers can block residents from installing solar energy devices if the neighborhood is still in the development phase. This bill:

Provides that during the development period, a developer may only prohibit a property owner from installing solar energy devices in developments with fewer than 51 residential units.

**Governance of Certain Housing Authorities—S.B. 1716**  
*by Senator Ellis—House Sponsor: Representative Miles*

S.B. 1716 relates to the governance of certain housing authorities. This bill:

Prohibits a commissioner of a municipality housing authority from being an officer or employee of a municipality. Provides that a commissioner may be a tenant of a public project over which the housing authority has jurisdiction or a person who is a recipient of housing assistance administered through the authority's housing choice voucher program.

Requires the appointment of commissioners under Section 392.031 (Appointment of Commissioners of a Municipal Housing Authority), Local Government Code, and requires a municipal housing authority composed of seven or more commissioners to appoint at least two commissioners to the authority who are tenants of a public housing project over which the authority has jurisdiction.

Requires a municipality that has a population over two million and a municipal housing authority composed of seven or more commissioners, in appointing commissioners under Section 392.031, Local Government Code, to appoint at least two commissioners to the authority who are tenants of a public housing project over which the authority has jurisdiction or recipients of housing assistance administered through the authority's housing choice voucher program.

Prohibits a commissioner from participating in any vote or discussion concerning the termination of the commissioner's rights to housing assistance administered through a housing choice voucher program or the rights of any person related into the first degree by consanguinity to the commissioner with respect to the person's occupancy rights in public housing or right to receive housing assistance administered through a housing choice voucher program.
Requires a majority of the other commissioners, if a commissioner appointed as a tenant of a public housing project ceases to reside in a housing unit operated by the public housing authority during the commissioner's term, to decide whether to request that a new commissioner be appointed.

Requires a majority of the other commissioners, if a commissioner appointed as a recipient of housing assistance administered through the authority's housing choice voucher program ceases to receive that assistance, to decide whether to request that a new commissioner be appointed.

**Restrictive Covenants Affecting Real Property in Certain Subdivisions—S.B. 1852**

*by Senator Nichols—House Sponsor: Representative James White*

Currently, a residential subdivision located at least partly in an unincorporated area of a county with population below a specified threshold may amend the covenants, conditions, and restrictions that govern the subdivision. Residential subdivisions located within a municipality's extraterritorial jurisdiction in counties with a population greater than the threshold are limited in amending these restrictions. It can be difficult for a homeowners' association to address changes needed to carry out the association's responsibilities in subdivisions whose covenants and restrictions are antiquated and outdated and the process for amending such restrictive covenants is too vague as to when an amendment becomes operative or effective. This bill:

Expands the applicability of statutory provisions regarding the amendment and enforcement of restrictions in certain residential subdivisions to include a residential real estate subdivision or any unit or parcel of a subdivision all or part of which is located within a county that borders Lake Livingston and has a population of less than 50,000.

Expands the conditions under which such statutory amendment and enforcement of restriction provisions apply to restrictions that affect real property within a residential real estate subdivision or any units or parcels of the subdivision to include the condition that the express terms of the instrument creating the restrictions may not be amended without a written instrument that is signed by a majority or more than a majority of the owners of the lots in the subdivision and filed in the real property records of each county in which all or part of the subdivision is located.

Changes to September 1, 2019, from September 1, 2015, the expiration date of a provision subjecting additional restrictions and units or parcels of a subdivision to statutory provisions regarding the amendment and enforcement of restrictions in certain residential subdivisions, described as restrictions that affect real property within a residential real estate subdivision or any units or parcels of the subdivision and that, by the express terms of the instrument creating the restrictions, provide that the amendments to the restrictions are not operative or effective until a specified date or the expiration of a specified period, and a provision providing that an amendment of such a restriction is effective, regardless of whether the date specified in the restrictions has occurred or the period prescribed by the restrictions has expired.
Evaluating Applications for Low Income Housing Tax Credits—S.B. 1989

by Senator Menéndez—House Sponsor: Representative Rodney Anderson

S.B. 1989 relates to underwriting standards for evaluating applications for low income housing tax credits. This bill:

Authorizes the governing board of the Texas Department of Housing and Community Affairs (TDHCA) to adopt underwriting standards for housing tax credits allocated by TDHCA. Requires that underwriting standards adopted and used to determine the feasibility of a proposed development be consistent with criteria established under Section 2306.185 (Long-term Affordability and Safety of Multifamily Rental Housing Developments), Government Code.

Requires TDHCA, for developments receiving housing tax credits, to determine the feasibility of the development at the time of cost certification using actual net operating income, as adjusted for stabilization of rents and extraordinary lease-up expenses and a maximum debt coverage ratio of 1.50 or higher as adopted by TDHCA rule.

Prohibits a feasibility determination from including a maximum operating expense-to-income ratio. Requires TDHCA, in determining net operating income and making the appropriate adjustments, to consider the permanent lender and equity partner stabilization requirements documented in the loan and in the partnership or entity agreements.

Authorizes TDHCA to adopt rules providing for exceptions to the maximum debt coverage ratio requirement with respect to specific types of projects.
Insurance Coverage for the Texas State University System—H.B. 796

by Representatives Geren and Lucio III—Senate Sponsor: Senator Eltife

Certain state entities are currently required to purchase lines of insurance through the State Office of Risk Management (SORM), which was established in 2001 to act as an insurance broker for state agencies. SORM may grant exceptions to that requirement if it does not provide a particular line of coverage and the exception is considered to be in the best interest of the state. Although the Texas State University System
and its component institutions have participated in the SORM program for several years, the university system has demonstrated that insurance coverage can be obtained outside SORM with better coverage levels at a lower price. This bill:

Removes the Texas State University System and component institutions from Labor Code requirements that they obtain risk management services and certain lines of insurance, including property and liability insurance, through the State Office of Risk Management (SORM).

Requires the Texas State University System and its component institutions to perform risk management services related to insurance coverage purchased by the system or institution without approval from the SORM board.

**Health Insurance Identification Cards—H.B. 1514**
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*by Representative Sheffield—Senate Sponsor: Senator Creighton*

There is not an easily identifiable way to distinguish which patients are covered by a qualified health plan (QHP) or under the federal Patient Protection and Affordable Care Act (ACA). While some insurers make this information available on the patient's identification card, there is no requirement to do so, nor is there a uniform way in which the information is displayed on the identification card. This bill:

Defines "advance payments of the premium tax credit," "enrollee," "qualified health plan," and "qualified health plan issuer."

Requires that an identification card or other similar document issued by a qualified health plan issuer to an enrollee of a qualified health plan purchased through a health benefit exchange display the acronym "QHP."

Requires the commissioner of insurance to monitor the ACA for amendments to the definitions and to determine if it is in the best interest of the state to adopt an amended definition for the purpose of qualified health plan identification card requirements.

Requires the commissioner by rule to adopt an amended definition if the commissioner determines it is in the best interest of the state to adopt the amended definition.

Requires the commissioner, in making the determination about a definition amendment, to consider the beneficial and adverse effects the amendment may have on individuals receiving medical care and health care services in Texas and on health care providers and physicians, in addition to considering other factors affecting the public interest.

Requires the commissioner to prepare a report of a determination made regarding whether to amend such definitions, including an explanation of the reasons for the determination, and file the report with the presiding officer of each house of the legislature not later than the 30th day after the date the determination is made.

Authorizes the commissioner to adopt rules as necessary to administer and enforce the provisions of this bill.
Adverse Determinations by Utilization Review Agents—H.B. 1621
by Representative Greg Bonnen—Senate Sponsor: Senator Seliger

Under current law, a utilization review agent must provide an insured or a person acting on the insured's behalf with notice of an adverse determination made in relation to coverage or benefits under a health insurance policy or health benefit plan. The insured or person acting on the insured's behalf may appeal the adverse determination decision and may request an independent review of a final adverse determination. However, during the appeal, the contested treatment is not covered by the insurer, forcing the insured to pay for the treatment out-of-pocket or go without treatment. This bill:

Amends the Insurance Code relating to notice and appeal of an adverse determination by a utilization review agent. Provides for an expedited appeals process under certain conditions set forth.

Transparency of Certain Health Benefit Plan Coverage Information—H.B. 1624
by Representative Smithee—Senate Sponsor: Senator Seliger

Health insurance providers do not post complete or easily accessible prescription drug formularies online. There is often no information about cost-sharing for prescription drugs under a given plan until after the plan is purchased, and the information is often inaccurate or outdated due to the frequency with which health insurance providers update their provider directories. This bill:

Requires a health benefit plan issuer to display on a public Internet website maintained by the issuer formulary information as required by the commissioner of insurance (commissioner) by rule.

Requires that a direct electronic link to the formulary information be displayed in a conspicuous manner in the electronic summary of benefits and coverage of each health benefit plan issued by the health benefit plan issuer on the health benefit plan issuer's Internet website. Requires that the information be publicly accessible to enrollees, prospective enrollees, and others without necessity of providing a password, a user name, or personally identifiable information.

Requires the commissioner to develop and adopt by rule requirements to promote consistency and clarity in the disclosure of formularies to facilitate comparison shopping among health benefit plans.

Requires that such requirements apply to each prescription drug: included in a formulary and dispensed in a network pharmacy; or covered under a health benefit plan and typically administered by a physician or health care provider.

Requires that the formulary disclosures include for each drug certain information set forth.

Authorizes the commissioner by rule to allow other disclosures relating to cost-sharing through a web-based tool that must meet certain conditions set forth.

Authorizes a health benefit plan issuer to make the required formulary information available to enrollees, prospective enrollees, and others through a toll-free telephone number that operates at least during normal business hours.
Requires a health benefit plan issuer that offers coverage for health care services through preferred providers, exclusive providers, or a network of physicians or health care providers to develop and maintain a physician and health care provider directory.

Requires that the directory be posted on a public Internet website maintained by the issuer. Requires that a direct electronic link to the directory be displayed in a conspicuous manner in the electronic summary of benefits and coverage of each health benefit plan issued by the health benefit plan issuer on the Internet website.

Requires the health benefit plan issuer to conduct an ongoing review of the directory and correct or update the information as necessary. Requires that corrections and updates be made not less than once each month.

Requires the health benefit plan issuer to conspicuously display in the directory an e-mail address and a toll-free telephone number to which any individual may report any inaccuracy in the directory. Requires the issuer to investigate the report and correct the information, as necessary, not later than the seventh day after the date the report is received if the issuer receives a report from any person that specifically identified directory information may be inaccurate.

Requires the commissioner to adopt rules regarding formulary disclosure not later than January 1, 2016.

Medicaid Billing for the Services of Substitute Dentists—H.B. 1661

_by Representative Guerra et al.—Senate Sponsor: Senator Uresti_

A physician with Medicaid credentials in Texas can work in any office location in the state with one Medicaid number, but a dentist's Medicaid credentials are linked to a specific office location. If a dentist is filling in for another dentist, they have to wait several weeks for the credentials to be issued to the new location. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC), to the extent allowed by federal law, to adopt rules ensuring that the same standards applying to a physician who bills the medical assistance program for services provided by a substitute physician apply also to a dentist who bills the medical assistance program for services provided by a substitute dentist.

Requires the executive commissioner of HHSC to adopt the rules necessary to implement the changes in law made by this bill as soon as practicable after the effective date of the bill.

Loss Damage Waivers—H.B. 2052

_by Representative Bohac—Senate Sponsor: Senator Seliger_

A loss damage waiver provides that a business will not hold a consumer liable for the damage of all or part of a rented item. Consumers pay additional fees for these waivers and are not required to purchase them. The Business and Commerce Code contains provisions for loss damage waivers for various rental goods, but does not include heavy equipment. This bill:
Insurance and Medicaid

Authorizes a customer who rents heavy equipment to purchase and sign a loss damage waiver.

Provides certain requirements and restrictions relating to such agreements.

Establishes a civil penalty for merchants who violate the provisions set forth.

**Rate-Setting Processes for Certain Health Plan Programs—H.B. 2084 [VETOED]**

*by Representative Muñoz, Jr. et al.—Senate Sponsor: Senators Hinojosa and Rodríguez*

The majority of Texas Medicaid clients receive services through a health plan provided though a managed care program. The process by which managed care payment rates and child health plan program rates are set is complex and has changed over time, and the Health and Human Services Commission (HHSC) has significant discretion in developing the rate-setting methodology.

Interested parties contend that more transparent documentation of the methodology, calculations, and assumptions used in the rate-setting process would provide policymakers and stakeholders the information needed to understand the factors that affect program costs, anticipate program funding needs, and assess the efficacy of the rate-setting process. H.B. 2084 seeks to bring such transparency to the Medicaid managed care and child health plan program rate-setting process. This bill:

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to ensure the transparency of the premium payment rate-setting process for the Medicaid managed care program and the child health plan program by publishing actuarial reports in a format that allows for tracing data and formulas across attachments, exhibits, and examples and that clearly identify and describe: the methodology by which the executive commissioner of HHSC set the payment rates; the data sources used; the components of the process that are assumptions and how the assumptions are developed; multipliers and factors used throughout the reports, including the source and purpose of the multipliers and factors; and the methodology by which the executive commissioner determined that the rates are actuarially sound for the populations covered and the services provided.

Provides that HHSC is not required to publish particular information in an actuarial report if HHSC determines the information is proprietary.

**Establishing Provisional Licenses for Insurance Agents—H.B. 2145**

*by Representative Smithee et al.—Senate Sponsor: Senator Creighton*

The Texas Department of Insurance (TDI) has struggled in recent years to keep up with insurance agent license applications in Texas. Although TDI intends to process applications within 30 days, some applicants report having to wait up to 90 days. During this wait, an applicant may lose income as they cannot work as an insurance agent until their application is approved. While statute provides for temporary licenses, they are not available for all applicants. Advocates contend that a provisional license for qualified applicants will allow such applicants to begin working sooner than if they waited for application approval. This bill:

Authorizes TDI to issue a provisional permit to an applicant for a general property and casualty insurance agent license; county mutual insurance agent license; general life, accident, and health insurance agent
license; funeral prearrangement life insurance agent license; or license to act as a life insurance agent who writes policies that do not exceed $25,000 on any one life.

Authorizes a qualified applicant to proceed to act as an agent if the provisional permit is not received from TDI within eight days after the applicant submits a completed application.

**Insurance Inspection Procedures—H.B. 2439**  
*by Representative Smith—Senate Sponsor: Senator Eltife*

The Texas Department of Insurance requires a licensed professional engineer to seal inspection documents in order for a structure to be certified as insurable by the Texas Windstorm Insurance Association (TWIA). Interested parties note that the act of inspecting a structure is not within the scope of the practice of engineering and should not require an engineer's seal. This bill:

Revises procedures and requirements for the issuance of a certificate of compliance for certain improvements made to structures.

Provides that a qualified inspector's approval is required only for ongoing improvements.

Prohibits the commissioner of insurance from adopting or enforcing a rule that requires a licensed engineer to affix the engineer's seal to an inspection form for TWIA coverage.

**Escrow Officer Licenses—H.B. 2491**  
*by Representative Pickett—Senate Sponsor: Senator Eltife*

Insurance agents in Texas are licensed by the Texas Department of Insurance (TDI) and are responsible for maintaining their licenses. Title agencies are entities that TDI licenses as agents to sell title insurance and to oversee the closings on real estate transactions. Title agencies employ escrow officers to handle the paperwork for the closings on real estate transactions and to ensure that the closings are compliant with state and federal laws. Current Texas law requires the title agent employing the escrow officer to obtain the escrow officer's license and to be responsible for the escrow officer's compliance with the law. Some individuals have multiple escrow officer licenses, one to correspond to each title agency they work with. This bill:

Removes the requirement for a title insurance agent employing an escrow officer to apply for the escrow officer's license with the Texas Department of Insurance (TDI).

Establishes a procedure for renewing an unexpired escrow officer license.

Requires continuing education programs for escrow officers to be certified.

Authorizes an escrow officer to be appointed by more than one title insurance agent.

Requires TDI to make certain information relating to escrow officer license holders available to the public.
Insurance Discounts—H.B. 2776
by Representative Murphy—Senate Sponsor: Senator Estes

Interested parties note that the optional premium discount that an insurer of residential property is authorized to provide applies at renewal for customers who have a demonstrated claim-free experience with their current insurer. Advocates contend that providing the commissioner of insurance with broader authority to approve other types and amounts of actuarially supported claim-free discounts and loss experience rating programs offered by other companies will benefit consumers. This bill:

Authorizes the commissioner of insurance to approve an actuarially justified rating program for certain residential property insurance policies if the rating program is based on claim or loss experience and is not an optional or actuarially justified premium discount authorized for such policies under current law.

Early Detection of Ovarian Cancer—H.B. 2813
by Representative Ken King et al.—Senate Sponsor: Senator Eiltife

The CA 125 blood test is a helpful tool for diagnosing ovarian cancer. The high mortality rate of ovarian cancer is in part due to the ambiguity of its symptoms; diagnosis often happens too late to save a patient. Compounding the symptomatic ambiguity, women are not regularly screened for the disease as they are for cervical and breast cancers. Advocates contend that early detection and intervention, like the CA 125 blood test, can significantly increase the odds of survival for people diagnosed with ovarian cancer. CA 125 blood tests are not currently required to be covered by health benefit plans. This bill:

Requires a health benefit plan that covers diagnostic medical procedures to provide coverage for expenses for an annual diagnostic examination for the early detection of ovarian cancer, which at a minimum includes a CA 125 blood test.

Dental Insurance Policies—H.B. 3024
by Representative Guerra—Senate Sponsor: Senator Hinojosa

The dentistry profession has seen a decrease in the number of private pay patients and an increase in the number of patients covered by dental insurance. Dental patients are often covered by two or more separate policies that provide for dental expenses. This can create conflict between the insurance providers and the dentist. This bill:

Provides for the coordination of dental benefits between primary and secondary insurers and prohibits the inclusion of certain coordination of benefits provisions in insurance policies.

Discount Health Care Programs—H.B. 3028
by Representative Frullo—Senate Sponsor: Senator Watson

Discount health care programs can be a useful tool for consumers to reduce the cost of pharmaceutical drugs. However, interested parties have raised concerns regarding whether these discount programs are being offered without the consent or knowledge of the dispensing pharmacy, and contend that a pharmacy
may be required to participate in certain discount programs as a condition of accessing certain provider networks. This bill:

Provides that it is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for a program operator to require a pharmacy or pharmacist to:
- participate in a specific provider network as a condition of processing a claim under the discount program; or
- participate in, or process claims under, a discount health care program as a condition of participation in a provider network.

Provides that it is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for a program operator to pay any consideration to a health care services provider or employee of a health care services provider to:
- encourage an individual to claim a discount for prescription drugs under a discount health care program; or
- to include discount health care program information on a prescription for a drug or in materials accompanying the prescription.

Provides that it is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs for a program operator to provide a person with written prescription forms that could reasonably mislead an individual to believe that the discount health care program is health insurance or provides coverage similar to health insurance.

Prohibits a pharmacy benefit manager from requiring a pharmacist or pharmacy to:
- accept or process a claim for prescription drugs under a discount health care program, unless the pharmacist or pharmacy agreed in writing to accept or process the claim;
- participate in a specified provider network as a condition of processing a claim for prescription drugs under a discount health care program; or
- participate in, or process claims under, a discount health care program as a condition of participation in a provider network.

Reimbursement for Home Telemonitoring Services Under Medicaid—H.B. 3519
by Representative Guerra et al.—Senate Sponsor: Senator Watson

In 2011, the 82nd Legislature passed S.B. 293, which helped to create a cost-effective alternative to more traditional ways of providing medical care by allowing Medicaid to cover home telemonitoring services for individuals with specific medical conditions. The bill provided for a sunset date of September 1, 2015, for Medicaid reimbursement for home telemonitoring services. This bill:

Prohibits the Health and Human Services Commission (HHSC), notwithstanding any other law, from reimbursing providers under Medicaid for the provision of home telemonitoring services on or after September 1, 2019, rather than September 1, 2015.
Adjudication of Pharmacy Benefit Claims—S.B. 94

by Senator Hinojosa et al.—House Sponsor: Representative Guerra

Section 1213.005 (Certain Charges Prohibited), Insurance Code, prohibits a health benefit plan and the entities administering plan benefits on their behalf from charging a fee for the submission and adjudication of a health care claim.

Health benefit plans contract with pharmacy benefit managers (PBMs) to process prescription claims for pharmacists. PBMs have been requiring pharmacies to pay a fee for each health care claim that is submitted electronically. In doing so, PBMs have been in violation of the Insurance Code, and as a result, have been unjustly enriched for the last nine years at the expense of Texas pharmacies and our citizens. PBMs contend that since they are acting on behalf of a health benefit plan, they have the authority to charge such fees. PBMs have found loopholes in the statute and have implemented creative coding so that it looks as if the PBM is not adjudicating a claim. This bill:

Prohibits a health benefit plan issuer or a pharmacy benefit manager from directly or indirectly charging or holding a pharmacist or pharmacy responsible for a fee for any step of or component or mechanism related to the pharmacy benefit claim adjudication process, including the adjudication of a pharmacy benefit claim; the processing or transmission of a pharmacy benefit claim; the development or management of a claim processing or adjudication network; or participation in a claim processing or adjudication network.

Insurance Ratings and Underwriting Practices—S.B. 188

by Senators Watson and West—House Sponsor: Representative Muñoz, Jr.

S.B. 736 (Watson; SP: Smithee), 83rd Legislature, Regular Session, protects the holder of a homeowners insurance policy who calls and asks a question regarding the policy. Current law prohibits such an inquiry from becoming the basis of an increase in rates or cancellation of the policy. Due to the complexities of the Insurance Code and the insurance market, a large percentage of the market was not included in the legislation. This bill:

Clarifies that, for the purpose of prohibiting an insurer from using a different underwriting guideline or charging a different rate for consumers who make inquiries regarding their policies, standard fire, homeowners, or farm and ranch owners insurance policies include any such policies written by: a farm mutual insurance company; a county mutual insurance company; a Lloyd's plan; and a reciprocal or interinsurance exchange.

Certain Practices in the Business of Personal Automobile Insurance—S.B. 189

by Senators Watson and West—House Sponsor: Representative Muñoz, Jr.

Current law protects the holder of a homeowners insurance policy who contacts the insurance company to ask a question regarding the policy. Such an inquiry is prohibited from becoming the basis of an increase in rates or cancellation of the policy. Interested parties contend that such protection needs to be extended to policyholders with regard to automobile insurance. This bill:
Amends the Insurance Code to include a personal automobile insurance policy among the types of insurance subject to statutory provisions prohibiting rate charging decisions by an insurer based solely on whether a consumer inquiry has been made by a policyholder.

**Maximum Allowable Cost Lists Related to Pharmacy Benefits—S.B. 332**

*by Senator Schwertner et al.—House Sponsor: Representative Hunter*

Health plans hire pharmacy benefit managers (PBMs) to administer pharmacy benefits for insured patients, develop provider networks, and process pharmacy claims. Each PBM uses its own pricing formula based on maximum allowable cost (MAC) to reimburse pharmacies for dispensing generic medications. However, there is no transparency in how a PBM determines which drugs will be reimbursed using a MAC formula, what the price will be, when the price will change, and what sources are used to determine MAC prices. This lack of transparency creates major challenges for pharmacies.

S.B. 1106 (Schwertner et al.; SP: John Davis), 83rd Legislature, Regular Session (relating to the use of maximum allowable cost lists under a Medicaid managed care pharmacy benefit plan), added much needed transparency to MAC pricing in Medicaid managed care. Further transparency is needed to ensure that payments to pharmacies for dispensing generic medications are not so low as to drive pharmacies out of business and, thereby, reduce patient access to prescription medications. This bill:

- Adds Subchapter H (Maximum Allowable Cost) to Chapter 1369, Insurance Code, to establish provisions related to the use of MAC lists in the administration of pharmacy benefits for applicable health plans.
- Prohibits a health benefit plan (HBPI) issuer or pharmacy benefit manager (PBM) from including a drug on a MAC list unless the drug:
  - has an "A" or "B" rating in the most recent version of the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book; or
  - is rated "NR" or "NA" or has a similar rating by a nationally recognized reference; and
    - is generally available for purchase by pharmacists and pharmacies in this state from a national or regional wholesaler and not obsolete.
- Provides that in formulating the maximum allowable cost price for a drug, a HBPI or PBM may only use the price of that drug and any drug listed as therapeutically equivalent to that drug in the most recent version of the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book.
- Authorizes a HBPI or PBM to place on a MAC list a drug that has a "B" rating in the most recent version of the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book or an "NR" or "NA" rating or a similar rating by a nationally recognized reference, if a therapeutically equivalent generic drug is unavailable or has limited market presence.
Requires a HBPI or PBM to disclose to a pharmacist or pharmacy the sources of the pricing data used in formulating MAC prices on the date the HBPI or PBM enters into the contract with the pharmacist or pharmacy and after that contract date, on the request of the pharmacist or pharmacy.

Requires a HBPI or PBM to establish a process that will in a timely manner eliminate drugs from MAC lists or modify maximum allowable cost prices to remain consistent with changes in pricing data used in formulating MAC prices and product availability, and to review and update MAC price information for each drug at least once every seven days to reflect any modification of maximum allowable cost pricing.

Requires a HBPI or PBM to provide to each pharmacist or pharmacy under contract with the HBPI or PBM a process to readily access the MAC list that applies to the pharmacist or pharmacy.

Requires a HBPI or PBM to provide in the contract with each pharmacist or pharmacy a procedure for the pharmacist or pharmacy to appeal a MAC price of a drug on or before the 10th day after the date a pharmacy benefit claim for the drug is made. Sets forth the procedure for making such an appeal.

Provides that a MAC list that applies to a pharmacist or pharmacy and is maintained by a HBPI or PBM is confidential.

Requires the commissioner of insurance to enforce this subchapter.

Mediation for Balance Billing—S.B. 481
by Senator Hancock et al.—House Sponsor: Representative Smithee

Balance billing is the practice of physicians billing patients for the portion of medical expenses not covered by the patient's insurance. Most commonly, this occurs when a facility-based physician does not have a contract with the same health benefit plans that have contracted with the facility in which they practice. An enrollee who is admitted into one of these facilities for a procedure or an emergency is ultimately responsible for an unexpected bill.

Prior to the passage of H.B. 2256 (Hancock et al.; SP: Duncan) (relating to mediation of out-of-network health benefit claim disputes), 81st Legislature, Regular Session, 2009, there was no remedy for this unexpected bill other than the patient attempting to set up a payment plan with the facility-based physician. H.B. 2256 established a new mediation process for consumers who are balance billed.

Mediation is working for consumers when it is available. In the past year, mediations have saved consumers millions and virtually all claims have been settled. However, despite the success of mediation, balance billing continues to be a common practice and it has become increasingly difficult for consumers to avoid being balance billed in emergency care situations. This bill:

Redefines "facility-based physician" to include an assistant surgeon.

Authorizes a patient covered by a preferred provider benefit plan or a health benefit plan to request mediation of a settlement of an out-of-network health benefit claim if the amount for which the enrollee is responsible to a facility-based physician, after copayments, deductibles, and coinsurance, including the amount unpaid by the administrator or insurer, is greater than $500, rather than $1,000.
Availability of Certain Insurance Forms on the Internet—S.B. 494
by Senator Watson—House Sponsor: Representative Muñoz, Jr.

S.B. 852 (Taylor; SP: Smithee), 83rd Legislature, Regular Session, 2013, authorized insurance companies to place specimen policy forms on their websites, rather than requiring them to physically deliver the forms to their customers. The bill also authorized insurance companies to notify the Texas Department of Insurance (TDI) and the Texas Office of Public Insurance Counsel (OPIC) of the availability of the forms so that they could also be posted on the agency websites.

However, few insurers notified TDI or OPIC, and while electronic posting of the forms allows consumers to review particular insurers by going to each individual website, interested parties note the need to increase the transparency and disclosure of insurance policy terms for consumers by making the various insurers' specimen policies available on one website, for comparison purposes. This bill:

Authorizes the office of public insurance counsel to post an insurer's specimen policy on the office's Internet website.

Texas Windstorm Insurance Association Waiver Program—S.B. 498
by Senator Larry Taylor et al.—House Sponsor: Representative Dennis Bonnen

Under current law, residential structures located in a Tier 1 coastal county may be eligible for wind and hail coverage through the Texas Windstorm Insurance Association (TWIA) if the property owner obtains a WPI-8, which certifies that the structure meets windstorm building code requirements.

Residential property owners are sometimes dropped from their private carriers for wind and hail coverage due to no fault of their own, and must seek coverage from TWIA. Unlike TWIA, the private insurance market does not require a WPI-8. Unfortunately, if such a certificate was not required by the owner's previous insurance carrier, securing a certificate after the fact is cost-prohibitive and overly burdensome.

Therefore, the legislature established the TWIA waiver program to ensure that residential property owners have access to wind and hail coverage under limited circumstances. However, this waiver program is set to expire on December 31, 2015, unless renewed by the 84th Legislature. This bill:

Authorizes the TWIA waiver program to continue accepting eligible residential structures for wind and hail coverage by repealing the statutory program expiration date of December 31, 2015.

Title Insurance Policy Liability and Reinsurance Requirements—S.B. 572
by Senator Eltife—House Sponsor: Representative Sheets

Large commercial real estate transactions often require title insurance that exceeds the capacity of many title insurance companies' financial ability to insure an interest alone, which causes those companies to use reinsurance. Many title insurance companies have traditionally reinsured with each other and, as a way to properly spread risk, have taken primary risk, obtained reinsurance from another title insurance company, and then additionally taken another round of risk as a reinsurer. Because many commercial real estate
transactions now greatly exceed the capacity of the entire title insurance industry, there is a movement away from this practice and toward a more active market in reinsurance with non-title reinsurers.

Currently in Texas, the statutory limit that a title insurance company can retain, whether only primary or primary and reinsurance, is 50 percent of a company's capital and surplus. Additionally, upon application and a hearing for approval by the Texas Department of Insurance (TDI), statute allows another 40 percent as reinsurance for a total of 90 percent.

While different states require different percentages, some states have no limit as to the amount of single-risk a company can retain, and the companies in those states have limits that are self-imposed. The National Association of Insurance Commissioners (NAIC) has adopted model legislation to help remove cumbersome barriers to efficiency in the commercial real estate industry. This bill:

Modifies the maximum title insurance policy liability from 50 percent of the title insurance company's capital stock and surplus as stated in the company's most recent annual statement to a maximum policy liability that is 50 percent of the sum of the title insurance company's surplus as regards policyholders and the company's statutory premium reserves as stated in the company's most recent annual statement. Revises certain requirements applicable to a title insurance company's authorization to obtain reinsurance.

Captive Insurance Companies—S.B. 667
by Senator Eltife—House Sponsor: Representative Smithee

Captive insurance companies (captives) are a type of licensed insurance company that is used to insure the risk of the company's own affiliates or controlled unaffiliated parties. Captives do not insure the general public. A total of 37 U.S. states and a number of foreign jurisdictions permit the formation of captives, which have been in existence in the United States since 1972. With more than 6,500 of them operating globally, the use of captives is a proven and valuable tool that helps businesses reduce or stabilize their costs of risks.

S.B. 734 (Carona; SP: Smithee), 83rd Legislature, Regular Session, authorized captives to be domiciled in Texas for the first time, which opened the door for Texas businesses to create their own captives or to re-domesticate captives that they may have formed elsewhere back to Texas. In the first year under the new law, Texas licensed six new captives and re-domesticated nine more. It is the intent of the legislature to make such opportunities available to more Texas businesses. This bill:

Authorizes a captive insurance company, with the approval of the commissioner of insurance (commissioner) to accept risks from and cede risks to or take credit for reserves on risks ceded to:
- a captive reinsurance pool composed only of other captive insurance companies holding a certificate of authority under this chapter or a similar law of another jurisdiction; or
- an affiliated captive insurance company holding a certificate of authority under this chapter or a similar law of another jurisdiction.

Authorizes a captive insurance company, with the commissioner's approval, to issue dividends or distributions to the holders of an equity interest in the captive insurance company. Requires the commissioner to adopt rules to implement the provisions of this bill.
Authorizes the commissioner, before determining whether to approve a captive insurance company's participation in a captive reinsurance pool, to:

- require that the captive insurance company provide to the commissioner evidence that the captive reinsurance pool:
  - is composed only of other captive insurance companies holding a certificate of authority under this chapter or a similar law of another jurisdiction; and
  - will be able to meet the pool's financial obligations; and
- impose any other limitation or requirement on the captive insurance company that is necessary and proper to provide adequate security for the captive insurance company.

**Preferred Provider Plans and Eye Care Professionals—S.B. 684**  
*by Senators Larry Taylor and Hall—House Sponsor: Representative Greg Bonnen*

Health insurers create preferred provider panels that optometrists, therapeutic optometrists, and ophthalmologists join in order to provide eye care to the health insurance plan's participants. These preferred providers contractually agree to accept certain negotiated reimbursement amounts to care for the plan's participants. Local demand for eye care services dictates whether a practice has the need to hire an additional doctor and can afford to hire that doctor. Without assurances that a new provider joining an existing eye care practice will be able to enter into such an agreement with a health insurance plan, there is concern that such practices will not be able to hire additional doctors to keep up with local demand. Eye care practices that have the need to hire an additional doctor but cannot do so because of the lack of a certain insurance contracting environment are faced with difficult business hiring decisions, and practices that cannot successfully attract new doctors to the business due to such uncertainty risk going out of business. This bill:

Prohibits an insurer from withholding the designation of preferred provider to an optometrist or therapeutic optometrist licensed by the Texas Optometry Board or an ophthalmologist licensed by the Texas Medical Board who joins the professional practice of a contracted preferred provider, applies to the insurer for designation as a preferred provider, and complies with the terms and conditions of eligibility to be a preferred provider. Requires an optometrist, therapeutic optometrist, or ophthalmologist so designated to comply with the terms of the preferred provider contract used by the insurer or the insurer's network provider.

**Investigation of Insurance Fraud—S.B. 782**  
*by Senator Eltife—House Sponsor: Representative Smithee*

Under current law, the Texas Department of Insurance (TDI) is authorized to investigate insurance fraud and aid in enforcing laws related to fraudulent insurance acts. Section 701.102 (Investigation of Certain Acts of Fraud), Insurance Code, includes an outdated reference to investigating the offense of fraud under Section 35.02(a), Penal Code. Section 35.02 was amended in 2005 to reflect the increasingly sophisticated and complex nature of fraudulent insurance activity, but the Insurance Code has not been updated, and offenses are often investigated and prosecuted under other sections of the Penal Code. While TDI is not required to act under that provision to investigate fraudulent insurance acts, the specific reference creates an inconsistency between the two codes. This bill:
Amends Section 701.102 (Investigation of Certain Acts of Fraud), Insurance Code, to delete a reference to Section 35.02(a) (relating to certain actions constituting insurance fraud), Penal Code.

Authorizes the commissioner of insurance to conduct any investigation necessary inside or outside this state to aid in enforcing laws relating to fraudulent insurance acts, including by providing technical or litigation assistance to other governmental agencies.

**Antifraud Educational Programs by the Texas Department of Insurance—S.B. 783**  
*by Senator Eltife—House Sponsor: Representative Frullo*

Insurance fraud is a multi-billion dollar problem in the United States, and the costs of fraud are borne by policyholders through premium increases. According to the FBI, the total cost of non-health-related insurance fraud is estimated to be over $40 billion per year, which costs the average American family between $400 and $700 per year in increased premiums.

Education and improvements in technology have proven to be effective tools in combating insurance fraud. Public education about insurance fraud helps Texans identify fraud and protect themselves from becoming victims. Similarly, improvements in crime-fighting technology help the Texas Department of Insurance (TDI) Fraud Unit and local law officials detect and investigate fraudulent insurance activity and take appropriate action quickly. This bill:

Requires the commissioner of insurance, through the insurance fraud unit, to develop fraud prevention educational programs and disseminate materials necessary to effectively educate the public regarding antifraud programs.

Authorizes the insurance fraud unit to accept gifts, grants, and donations to enable the fraud unit to perform its duties, but prohibits the fraud unit from accepting such funds from a regulated entity.

**Use of Certain Information by the Texas Department of Insurance—S.B. 784**  
*by Senator Eltife—House Sponsor: Representative Frullo*

A data call is a mandatory request to insurers for specific information with a timeline for completion and is one of the information-gathering tools routinely used by the Texas Department of Insurance (TDI). Texas law mandates certain data calls, some of which are required to prepare reports, conduct hearings, monitor the insurance market, and fulfill information requests. Other data calls are not mandated by law but are part of TDI's regulatory processes.

Over time, some data calls used by TDI, whether required by law or developed as part of agency practice, have become outdated or duplicative and are no longer necessary to effectively regulate insurance. TDI conducted an internal analysis and identified a number of data calls that can be eliminated, or required less frequently, without impacting TDI's ability to effectively protect consumers or perform other core functions. In an effort to be thorough, TDI included legislatively mandated reports and their accompanying data calls as part of the review. This bill:
Authorizes, rather than requires, the commissioner of insurance to conduct a public hearing each biennium to review rates to be charged for workers' compensation insurance written in Texas.

Changes from a quarterly basis to an annual basis the reporting requirement for certain property and casualty insurers to file with the commissioner certain information, as well as the commissioner's report regarding such information.

Provides that, for purposes of the commissioner's rulemaking authority regarding the determination of the information required to be included in a rate filing, information necessary to evidence that the computation of the rate does not include disallowed expenses applies to personal lines.

Strikes certain provisions of the Insurance Code relating to:
- the Texas health benefits study of the disparity in patient copayments between orally and intravenously administered chemotherapies;
- data collection and reporting relating to HIV and AIDS;
- liability insurance closed claim reports;
- data collection relating to personal automobile insurance and residential property insurance claims information;
- reporting of insurance industry community investments;
- a statistical plan for periodic claim settlement practices reports;
- an annual statement of all amounts collected and expenses incurred for each of the preceding three years of a private purchasing cooperative or health group cooperative;
- a filing of a small or large employer health benefit plan issuer's geographic service areas; and
- a summary report of all complaints initiated by enrollees, patients, or health care providers submitted by a utilization review agent.

Makes the repeal of liability insurance closed claims reporting applicable only to a claim closed on or after January 1, 2016.

**Licensing of Insurance Agents and Adjusters—S.B. 876**

by Senator Eltife—House Sponsor: Representative Frullo

The Texas Department of Insurance (TDI) has experienced an unprecedented increase in insurance agent and adjuster license requests. The increased demand for agent and adjuster licenses in Texas, and the greater complexity of certain filings, has strained agency resources and the agency's ability to deliver licensing services in a timely manner while providing quality customer service. This bill:

Requires the commissioner of insurance (commissioner) to adopt reasonable rules setting standards for an agent, insurer, or health maintenance organization to appoint more than 500 temporary license holders during a calendar year. Requires that the standards include consideration of the ability of an agent, insurer, or health maintenance organization to monitor appointed temporary agents.
Sets forth revised expiration dates for licenses. Subjects certain license renewals to the same expiration schedule as newly issued licenses and specifies that each such license expires on the second anniversary of the date the license is issued to or renewed by a person that is not an individual.

Sets the expiration date of certain licenses at the license holder's birthday so that the expiration date for a license issued or renewed in an even-numbered year is the individual license holder's birthday each even-numbered year and the expiration date for a license issued or renewed in an odd-numbered year is the individual license holder's birthday each odd-numbered year.

Subjects all licenses issued to a person who holds more than one license to the earliest expiration date of the licenses held and, after that, to the expiration schedule set forth. Prohibits the commissioner of insurance from prorating the initial application fee for a license based on the license expiration period for a person who holds more than one license. Clarifies that a license fee is a license application fee and an applicant for a renewal license is required to remit a license application fee before the expiration of the license being renewed.

Conditions licensure for an individual on the completion of required continuing education. Changes the continuing education requirement from 15 hours annually to 24 hours during the license period for an individual who holds:

- a general life, accident, and health license;
- a life agent license;
- a life and health insurance counselor license;
- a general property and casualty license;
- a personal lines property and casualty license; or
- a public insurance adjuster license.

Clarifies that an individual who holds an adjuster license or managing general agent license is subject to the continuing education requirement.

Prohibits TDI from renewing an insurance professional's license if the license holder fails to complete an applicable continuing education requirement not later than the 90th day after the last day of the licensing period or fails to pay an applicable fine related to the failure to timely complete continuing education.

Prohibits TDI from issuing a new insurance professional's license to an individual who was previously licensed as an insurance professional if the individual fails to provide evidence of completion of an applicable continuing education requirement for the expired, nonrenewed, canceled, or revoked license or fails to pay an applicable fine related to the failure to timely complete continuing education.

Establishes that completion of continuing education after expiration of a license is not a defense in a disciplinary action under statutory provisions relating to grounds for license denial or disciplinary action, statutory provisions authorizing the establishment of fines, or another provision of the Insurance Code against an individual who failed to complete required continuing education.

Expands TDI's duty to certify continuing education programs for insurance agents to include certification of such programs for insurance adjusters and clarifies that the continuing education program for licensed insurance adjusters must include education relating to state law regarding unfair methods of competition.
and unfair or deceptive acts or practices, state law regarding false advertising by unauthorized insurers, the Unfair Claim Settlement Practices Act, the Deceptive Trade Practices–Consumer Protection Act, and any other similar laws specified by TDI.

Clarifies that statutory provisions relating to the waiting period for an individual applying for an agent license after denial of a license application or revocation of a license do not apply to an applicant whose license application was denied or revoked for failure by the applicant to pass a required written examination, to complete continuing education or pay an applicable fine, or to submit a properly completed license application.

Authorizes a licensed nonresident agent who has moved to Texas from the other state that licensed the individual to apply to TDI for a comparable license for residents of Texas. Requires such an application to include a notification of the agent's change of address and contact information, a clearance letter from the state authority of the state that issued the agent's prior resident license demonstrating the agent's good standing with that authority, and fingerprint forms in the format prescribed by TDI, which may be electronic. Requires TDI to issue a comparable resident agent license to a nonresident agent and to cancel the agent's nonresident agent license if the agent submits a satisfactory application in accordance with those requirements.

Includes a Certified Risk Manager (CRM) from The National Alliance for Insurance Education & Research among the applicants who are not required to take an examination to obtain a risk manager's license. Exempts license holders who have held certain designations for not less than 30 years from the continuing education requirements.

**Texas Windstorm Insurance Association—S.B. 900**

*by Senator Larry Taylor et al.—House Sponsor: Representative Greg Bonnen*

Established in 1971, the Texas Windstorm Insurance Association (TWIA) has served as the insurer of last resort for wind and hail insurance for Tier 1 counties, including 14 coastal counties and part of Harris County. Since its inception, TWIA has undergone significant legislative reform. In 2009, the legislature adopted funding reforms to reduce unknown financial liability for member insurers as an incentive to increase the number of voluntary policies issued among private carriers along the Gulf Coast. During the 82nd Legislature, 1st Called Session, 2011, a policyholder claims process was established to ensure that legitimate claims are paid fairly and on time. Despite these reforms, interested parties contend that issues relating to TWIA's administrative functions, operations, governance, and financial structure persist. This bill:

Authorizes the commissioner of insurance (commissioner) to contract with an administrator to manage the Texas Windstorm Insurance Association (TWIA) and administer the plan of operation if it is determined by the commissioner to be in the best interest of the policyholders and the public. Grants the commissioner rulemaking authority to implement the contract.

Requires the Texas Department of Insurance (TDI) to conduct a biennial study of market incentives to promote participation in the voluntary windstorm and hail insurance market in the seacoast territory of this state. Requires that the study address as possible incentives the mandatory or voluntary issuance of windstorm and hail insurance in conjunction with the issuance of a homeowners policy in the seacoast
territory. Requires that the results of the study be included in the report submitted by TDI under Section 32.022 (Biennial Report to the Legislature), Insurance Code.

Modifies the order of funds to be used to pay for losses not covered by TWIA premiums, other revenue, or the catastrophe reserve trust fund (CRTF) in a catastrophe year where an occurrence caused insured losses in a catastrophe area as designated by the commissioner.

Modifies the composition of the board of directors of TWIA to include members who must be representatives of the insurance industry who actively write and renew windstorm and hail insurance in the first tier coastal counties and member residents of certain regions set forth.

Authorizes TWIA to insure certain structures for a policy term not to exceed 30 days if an inspection verification form or other inspection form adopted by TDI has been issued for the structure for purposes of providing temporary coverage while an applicant seeks to secure a certificate of compliance for the structure if the structure is otherwise insurable property.

Expands the authorized uses of the CRTF to include purchasing reinsurance or using alternative risk financing mechanisms.

Requires the comptroller of public accounts of the State of Texas to invest the portion of the CRTF that is above the required balances.

**Personal Automobile and Residential Property Insurance Policies—S.B. 956**

by Senator Eltife—House Sponsor: Representative Muñoz, Jr.

Current law does not set a deadline by which insurers must deliver personal automobile or residential property insurance policies to policyholders. Given the varying term lengths of different policies, there is a need to set requirements for timely delivery of an insurance policy based on the length of a policy's term.

This bill:

- Adds Chapter 525 (Delivery of Insurance Policies) to Subtitle B, Title 5, Insurance Code.

- Provides that this chapter applies to insurers writing personal automobile insurance or residential property insurance in this state; the Texas Windstorm Insurance Association; the FAIR Plan Association; and the Texas Automobile Insurance Plan Association.

- Requires such an insurer to deliver a policy issued by the insurer to the policyholder, or to the insurer's agent for delivery to the policyholder not later than:
  - the 30th day after the effective date of the policy if the policy term is more than 30 days;
  - the 10th day after the effective date of the policy if the policy term is more than 10 days and less than 31 days; or
  - for a policy with a term of 10 days or less, within the policy period.

- Requires an insurer to whom this chapter applies to deliver a policy renewed or amended by the insurer to the policyholder, or to the insurer's agent for delivery to the policyholder, not later than the 15th day after
the date the insurer or insurer’s agent receives a written request from the policyholder that the policy be delivered to the policyholder.

Authorizes the commissioner of insurance to adopt rules to implement this chapter.

**Workers’ Compensation Insurance Rate Filings—S.B. 978**

_by Senator Creighton—House Sponsor: Representative Sheets_

Current law does not adequately protect workers’ compensation rate filings from competitors that wish to use proprietary information received through disclosure. Filings for property and casualty lines, however, are subject to Chapter 552, Government Code, which protects intellectual property in such filings from public disclosure to those who wish to use the filer’s innovations without having to invest in creating such innovations themselves.

One insurer was recently required to file a model used in the pricing of its workers’ compensation products. Another insurer requested the filed model, and under Section 2053.004 (Public Inspection of Information), Insurance Code, it had to be disclosed. The disclosure of this information allowed competitors to obtain proprietary innovation without a similar expenditure of time, effort, and money. This bill:

Provides that each filing made, including any supporting information filed, under Subchapter A (Rate Filings), Chapter 2053 (Rates for Workers’ Compensation Insurance), Insurance Code, is public information subject to Chapter 552 (Public Information), Government Code, including any applicable exception from required disclosure under that chapter, rather than providing that each filing made under this subchapter is open to public inspection as of the date the filing is made, including any supporting information so filed.

Requires the Texas Department of Insurance (TDI), each year, to make available to the public information concerning TDI’s general process and methodology for rate review under Chapter 2053, Insurance Code, including factors that contribute to the disapproval of a rate. Requires that information so provided be general in nature and provides that the information may not reveal proprietary or trade secret information of any insurer.

**Individual Indemnity Health Insurance—S.B. 979**

_by Senator Creighton—House Sponsor: Representative Meyer_

Hospital indemnity policies have been in the insurance marketplace for decades and pay benefits directly to the policyholder to assist with out-of-pocket costs associated with an accident or sickness. While policies always provide benefits related to hospital confinement, the coverage typically provides additional benefits that do not require a confinement—benefits that are critically important given the breadth of procedures now performed on an outpatient basis.

Section 1201.104 (Minimum Standards for Benefits), Insurance Code, directs the Texas Department of Insurance (TDI) to set minimum standards for various categories of health insurance. Although enacted in 2003, the language used is based on a National Association of Insurance Commissioners (NAIC) model first adopted in 1974. This language identifies the coverage at issue as "hospital confinement indemnity coverage."
Upon enacting the Health Insurance Portability and Accountability Act (HIPAA) in 1996, Congress referred to this same category of coverage as "hospital indemnity or other fixed indemnity insurance." In the ensuing years, the Texas Legislature has used this exact language in various sections of the Insurance Code.

Although "hospital confinement indemnity" and "hospital indemnity" are used interchangeably, the inclusion of the term "confinement" in Section 1201.104 has been misconstrued to preclude benefits not conditioned on confinement.

TDI needs clear statutory authority to ensure that consumers continue to have access to hospital indemnity coverage with these valuable benefits. This bill:

Includes fixed indemnity coverage among the categories of coverage for which the commissioner of insurance is required to adopt rules establishing minimum standards for benefits for individual accident and health insurance policies. Requires the commissioner to adopt any rules necessary to implement the minimum standards for such benefits not later than January 1, 2016.

Mezzanine Real Estate Loans—S.B. 1008
by Senator Eltife—House Sponsor: Representative Frullo

Chapter 425 (Reserves and Investments for Life Insurance), Insurance Code, regulates the investments that a domestic life insurance company is affirmatively authorized to make. The goal of the regulation of such investments is to promote the solvency of life insurance companies domiciled in Texas.

The Texas Department of Insurance (TDI) has generally adopted the National Association of Insurance Commissioners Accounting Practices and Procedures Manual (the NAIC Accounting Manual), which contains detailed guidance for insurance companies on how to account for their business transactions and investments in their statutory financial statements filed with state insurance regulators. The Statement of Statutory Accounting Principles No. 83 (SSAP 83) set forth in the NAIC Accounting Manual expressly contemplates insurance companies investing in "mezzanine real estate loans," and allows an insurance company to record as assets in its statutory financial statements mezzanine real estate loans if various conditions set forth in SSAP 83 are satisfied. SSAP 83 is included in the part of the NAIC Accounting Manual that has been specifically adopted by TDI. Chapter 425, however, does not currently specifically authorize investments in mezzanine real estate loans.

Mezzanine real estate loans can be attractive and prudent investment vehicles. Large insurance companies with sophisticated investment departments have the investment expertise to properly evaluate the risks and rewards of such investments. This bill:

Authorizes certain domestic capital stock life, health, or accident insurance companies with more than $10 billion in admitted assets to invest in a mezzanine real estate loan, defined in the bill as a loan secured by a pledge of direct or indirect equity interests in an entity that owns real estate, contingent on the loan documents requiring each pledgor to abstain from:

- granting an additional security interest in the equity interest pledged;
- employing techniques to minimize the likelihood or impact of a bankruptcy filing by the real estate owner or the mezzanine real estate loan borrower; and
- requiring the real estate owner or the mezzanine real estate loan borrower to:
  - hold no assets other than the real estate in the case of the owner and the equity interests in the entity in the case of the borrower;
  - not engage in any business other than the ownership and operation of the real estate in the case of the owner and holding an ownership interest in the owner in the case of the borrower; and
  - not incur additional debt, other than limited trade payables, a first mortgage loan, or the mezzanine real estate loan.

Requires such an insurance company, before making an initial investment in a mezzanine real estate loan, to corroborate that the sum of the first mortgage on the real estate and the mezzanine real estate loan does not exceed 100 percent of the value of the current appraised value of the real estate. Caps such an insurance company's cumulative investment in a mezzanine real estate loan at three percent of the insurance company's admitted assets.

**Regulation of Public Insurance Adjusters—S.B. 1060**

*b* by Senators Hinojosa and Larry Taylor—House Sponsor: Representative Ed Thompson

Dozens of lawsuits are filed against property insurance companies every day across Texas alleging underpayment of hail damage claims. Thousands of these lawsuits are presently pending in courts across the state—predominately in Hidalgo, Dallas, Tarrant, and Potter counties—all locations where significant hail storms have occurred over the past few years.

Typically these lawsuits originate with a public adjuster knocking on a property owner's door with promises of a "free roof" because of hail damage. As long as the roof is old, it likely exhibits characteristics that can be alleged to have resulted from hail impact. These public adjusters, in an attempt to reasonably resolve the claim, work to demonstrate to the insurance company that the roof damage is a result of hail impact.

Other public adjusters, however, simply act as conduits for lawyers. These public adjusters have no intention of adjusting the claim, but instead simply immediately refer the homeowner to a lawyer. In fact, some public adjusters ask the homeowner to sign a lawyer contract simultaneously with execution of the public adjuster contract. That contract provides the lawyer with a 30 to 40 percent contingency fee payable out of any insurance proceeds obtained.

There is an emerging industry in Texas of public adjusters who take advantage of insurance claims for significant personal financial gain, specifically in hail storm situations, that needs to be stopped. This practice affects homeowners insurance premiums and coverage and causes insurance costs to significantly soar for all Texans. This bill:

Prohibits a licensed public insurance adjuster from entering into a contract with an insured and collecting a commission without the intent to actually perform the services customarily provided by a licensed public insurance adjuster for the insured.

Prohibits a licensed public insurance adjuster from engaging in activities that may reasonably be construed as presenting a conflict of interest, including soliciting or accepting any remuneration from, having a
financial interest in, or deriving any direct or indirect financial benefit from, any salvage firm, repair firm, construction firm, or other firm that obtains business in connection with any claim.

Prohibits a licensed public insurance adjuster from directly or indirectly soliciting employment for an attorney or entering into a contract with an insured for the primary purpose of referring an insured to an attorney, and without the intent to actually perform the services customarily provided by a licensed public insurance adjuster. Prohibits a licensed public insurance adjuster from acting on behalf of an attorney in having an insured sign an attorney representation agreement. Requires a licensed public insurance adjuster to become familiar with and at all times act in conformance with statutes relating to criminal barratry.

Prohibits a licensed public insurance adjuster from accepting a fee, commission, or other valuable consideration of any nature, regardless of form or amount, in exchange for the referral by a licensed public insurance adjuster of an insured to any third-party individual or firm, including an attorney, appraiser, umpire, construction company, contractor, or salvage company.

Requires the commissioner of insurance to adopt rules necessary to implement and enforce these provisions.

Consolidated Insurance Program—S.B. 1081

by Senator Creighton—House Sponsor: Representative Huberty

Consolidated insurance programs (CIPs) are insurance programs under which a principal provides general liability insurance coverage, workers’ compensation insurance coverage, or both, that are incorporated into an insurance program for a single construction project to provide insurance coverage for the owner and all contractors on a construction project. These policies are bought by the project owner or general contractor. When bidding on a project covered by a CIP, contractors are expected to deduct the cost of insurance from their bids. In theory, CIPs reduce insurance costs for a project through buying in bulk and ensure that each contractor on a project has sufficient coverage.

Despite the fact that many contractors have found that the cost savings associated with a CIP are realized through providing insufficient coverage that results in risk shifting to contractors that would ordinarily be covered by the contractors’ own insurance coverage, they cannot supplement the coverage provided under a CIP with their own insurance due to an endorsement in their policies that excludes coverage for work done on CIP projects. This bill:

Requires a principal who procure an insurance policy under a consolidated insurance program and a contractor who participates in a consolidated insurance program to disclose certain information about the consolidated insurance program before entering into a construction contract with a person if the construction contract requires the person to enroll in the consolidated insurance program.

Provides that a person may not be required to enter into a construction contract that requires enrollment in a consolidated insurance program unless the person is provided such information. Further provides that if the required information is not provided to the person within the 10-day period, the person may elect not to enroll in the consolidated insurance program.
Requires a person that elects not to enroll in the consolidated insurance program to obtain insurance coverage for the person's work on the construction project. Requires the principal or contractor, as applicable, to compensate the person for the actual cost of that insurance coverage.

Authorizes a contractor to request from the principal, or from a party with which the contractor has a direct contractual relationship, a complete copy of the insurance policy that provides coverage for the contractor under a consolidated insurance program. Establishes that it is a material breach of a contractor's construction contract if a complete copy of the insurance policy requested by the contractor is not provided before a certain time.

Requires the commissioner of insurance to adopt rules as necessary to implement general provisions regarding consolidated insurance programs.

**Reinsurance Ceded to Certain Assuming Insurers—S.B. 1093**  
*by Senator Creighton—House Sponsor: Representative Sheets*

When an insurer domiciled in Texas places reinsurance with a company that is not authorized to do business in Texas and wants to take credit for such reinsurance in its financial statements, there are restrictions on the type of assets in which insurers or reinsurers can invest when the funds are held as security for a reinsurance contract. These investments are limited to securities that are marketable over a national exchange, have a maturity date of less than one year, and are listed by the Securities Valuation Office of the National Association of Insurance Commissioners. Interested parties contend that these limitations prevent the insurer or reinsurer from obtaining favorable investment returns and places Texas insurers at a competitive disadvantage with respect to reinsurance options, which may discourage entities from domiciling in Texas. This bill:

Deletes text requiring that securities be readily marketable over a national exchange and have a maturity date of not later than one year to be acceptable as security for the payment of reinsurance obligations for life, health, and accident insurance companies and related entities or for property and casualty insurers.

**Regulating Contingent Deferred Annuity Contracts—S.B. 1107**  
*by Senator Eltife—House Sponsor: Representative Smithee*

Although current law provides authority to the Texas Department of Insurance (TDI) to regulate annuities, determining whether the growing market of annuity products can be regulated under current law is difficult. It is not clear whether TDI has the authority to regulate new and unique annuity products, such as contingent deferred annuities and indexed annuities that replicate investment market returns, which results in an incomplete regulatory framework that does not respond well to market changes or adequately protect consumers. This bill:

Provides that Chapter 1107.002 (Standard Nonforfeiture Law for Certain Annuities), Insurance Code, does not apply to a contingent deferred annuity contract as defined by Section 1116.003 (Rulemaking Authority for Contingent Deferred Annuity Contracts), Insurance Code, as added by this Act.
Defines "contingent deferred annuity contract" in Section 1116.003 (Rulemaking Authority for Contingent Deferred Annuity Contracts), Insurance Code.

Authorizes the commissioner of insurance to adopt reasonable standards for contingent deferred annuity contracts, including the standards for:
- the procedures for Texas Department of Insurance (TDI) review and approval of contingent deferred annuity contracts and the criteria TDI will use in approving the contracts;
- replacement, suitability, and disclosure requirements that are consistent with applicable model regulations developed by the National Association of Insurance Commissioners (NAIC); and
- advertising of contingent deferred annuity contracts that are consistent with applicable model regulations developed by NAIC.

**Insurance Reporting Program—S.B. 1174**
*by Senator Eltife—House Sponsor: Representative Dutton*

The Child Support Lien Network, which is designed to assist in the collection of past-due child support, includes a database of more than three million delinquent child support obligors owing over $80 billion in past-due support. The database is used to intercept insurance settlements to pay delinquent child support obligations owed to children and families. Insurers are required to access the network before certain insurance claims are paid. In statute, the network is referred to as the insurance reporting program operated by the office of the attorney general, the state's designated Title IV-D agency.

However, the proceeds from a substantial number of first-party claims are typically paid to repair damaged vehicles or homes. If these claims were to be reported through the network, there could be a significant number of "false positives"—instances in which the attorney general would be provided reports of payments that were actually being made to body shops to repair vehicles or to contractors to repair homes.

This false positive problem was recognized by the attorney general when rules relating to the insurance reporting program were adopted, and because of this, the rules include exceptions for certain claims that need not be reported. S.B. 1174 seeks to conform statute to the rules and streamline the process of reporting claims to help maximize child support lien collection efficiency. This bill:

 Provides that an insurer may not be required to report or identify certain first-party and third-party claims set forth.

**Regulation of Certain Life Insurance Contracts—S.B. 1196**
*by Senator Eltife—House Sponsor: Representative Frullo*

Life insurers have for many years issued products called "funding agreements," "guaranteed investment contracts," and "synthetic guaranteed investment contracts," which are specialized types of annuity products. Although the definitions for these products and the insurance regulatory requirements applicable thereto are scattered throughout the Insurance Code, current law does not provide a clear distinction between funding agreements and guaranteed investment contracts. Interested parties contend that
inconsistent use of the terms by insurance companies has caused confusion and provided minimal
guidance. This bill:

Codifies the definitions and regulatory requirements of these types of annuity products in a single new
chapter of the Insurance Code to clarify that funding agreements, guaranteed investment contracts, and
synthetic investment contracts, as defined in the bill:

- are types of annuity contracts;
- may be issued for any permissible purposes specified in the bill;
- are exempt from certain consumer-oriented insurance regulatory requirements if they have no
mortality or morbidity contingencies, since such products are marketed to sophisticated
purchasers, rendering such requirements unnecessary; and
- receive the same claims payment priority status as policies of insurance under the Insurer
Receivership Act.

Provides that this chapter may be cited as the Act for the Regulation of Funding Agreements, Guaranteed
Investment Contracts, and Synthetic Guaranteed Investment Contracts.

Amends existing Section 443.301(b), Insurance Code, to specify that an annuity contract has the same
"Class 2" claims payment priority status as a policy of insurance in the receivership of a Texas domestic
insurance company.

Payment of Covered Claims Based on Assignment—S.B. 1227
by Senator Seliger—House Sponsor: Representative Workman

A recent court ruling has produced unintended consequences by prohibiting the Texas Property and
Casualty Insurance Guaranty Association from paying an individual who holds a valid assignment of a
covered claim. The ruling has had a negative effect on the protection of the consumer as well as on the
ability of the insurance premium finance industry to employ traditional industry practices such as using the
assignment of claims as collateral in the policies that they are financing. S.B. 1227 amends current law
relating to payment of covered claims based on assignment. This bill:

Provides that a person has a covered claim under Chapter 462 (Texas Property and Casualty Insurance
Guaranty Association), Insurance Code, if the person holds a valid assignment of a covered claim for
unearned premiums under Section 462.202 (Claim for Unearned Premiums), Insurance Code.

Authorizing an Insurer's Deposit of Money—S.B. 1427
by Senator Lucio—House Sponsor: Representative Smithee

A long-standing arrangement exists in which insurers make voluntary deposits with local banks as a
guarantee that claims will be paid in the event that the insurer becomes insolvent. Although current law
provides for such transfers with the office of the comptroller of public accounts of the State of Texas
(comptroller's office), it is unclear whether the insurer can make deposits to private banks. Recently, the
comptroller's office announced that, without a change in the law to validate insurers' arrangements with
private banks, it will require that all voluntary deposits be made with the comptroller's office. However,
insurers, banks, and the Texas Department of Insurance all wish to see the current arrangement continue. This bill:

Authorizes an insurer under Section 423.004 (Statutory Deposits With Department), Insurance Code, to deposit the required money or other assets with the Texas Department of Insurance under the conditions set forth, notwithstanding any requirement under the Insurance Code that an insurer deposit with the comptroller of public accounts of the State of Texas money or other assets for the security of an insurer's policyholders or creditors, including a deposit required by another state.

Provides that such a deposit is required to be approved by the commissioner of insurance; is subject to any requirements applicable to the type of deposit; is required to be held under the commissioner's control; and is prohibited from being substituted or withdrawn by the insurer without the commissioner's approval.

Provides that the conditions set forth do not apply to any deposit made under Chapter 406 (Special Deposits Required Under Potentially Hazardously Conditions), Insurance Code.

Principle-Based Reserving—S.B. 1654
by Senator Hancock et al.—House Sponsor: Representative Sheets

Insurance companies are required to maintain and incorporate statutory reserves with respect to their future obligations. Current law relies on a one-size-fits-all approach that does not appropriately take into account differences in companies and the life insurance products they write. For example, differences in the design of two products can affect the level of statutory reserves, even if the underlying risks to a company are the same. Interested parties contend that the resulting statutory reserves, when compared to the amount reasonably necessary to pay future obligations, are much too high in some cases, and too low in others. Because of these inefficiencies, some life insurers have been forced to utilize reinsurance, or alternative mechanisms such as captive insurance programs, to mitigate the impact of unnecessarily high reserves.

The National Association of Insurance Commissioners (NAIC) has adopted a revised Standard Valuation Law model for passage by state legislatures, which allows a state's insurance commissioner to permit companies to set outstanding policy and contract reserves using a principle-based reserving approach.

Principle-based reserving uses revised methods and assumptions for setting reserves that better reflect the features and risks in modern insurance products. In addition, it requires companies to model various economic scenarios to ensure the right level of reserves to meet the future obligations of life insurance companies to their policyholders. Once principle-based reserving is implemented, statutory life insurance reserves will more accurately reflect the insurance risks of individual companies and products. This bill:

Requires the commissioner of insurance (commissioner) to adopt by rule a valuation manual substantially similar to the valuation manual approved by NAIC for the purpose of setting reserves for life insurance policies, accident and health insurance policies, and certain deposit-type contracts and to determine the operative date of the valuation manual.

Provides that the minimum standard of valuation for disability, accident and sickness, and accident and health insurance contracts issued before the valuation manual's operative date is the valuation standard in
existence before the valuation manual's operative date in addition to any requirements established by the commissioner and adopted by rule. Provides that the standard prescribed by the valuation manual is the minimum standard of valuation for policies and contracts issued on or after the valuation manual's operative date, including the minimum standard for accident and health insurance.

Sets forth conditions for determining the valuation manual's operative date and requires that any changes to the valuation manual made after the commissioner's adoption be adopted by rule and be substantially similar to changes adopted by the NAIC.

Sets forth the required content of the valuation manual, including the specification of certain minimum valuation standards, provisions governing the application of principle-based valuation, and an exemption that allows certain small companies to value reserves based on an exception from certain requirements. Sets forth the valuation manual's required minimum valuation standard for policies not subject to a principle-based valuation standard. Requires a company to comply with minimum valuation standards prescribed by commissioner rule in the absence of a specific valuation requirement or if such a requirement in the valuation manual does not in the commissioner's opinion comply with state standard valuation law.

Authorizes the commissioner to employ or contract with a qualified actuary at the company's expense to perform an actuarial examination of a company and provide an opinion concerning the appropriateness of any reserve assumption or method used by the company or to review and provide an opinion on a company's compliance with any requirement of state standard valuation law. Authorizes the commissioner to rely on the opinion in regards to provisions contained within state standard valuation law of a qualified actuary engaged by the insurance supervisory official of another state.

Authorizes the commissioner to require a company to change an assumption or method as necessary in the commissioner's opinion to comply with a requirement of the valuation manual or state standard valuation law and authorizes the commissioner to take other disciplinary action as permitted under statutory provisions prescribing the imposition of sanctions.

Requires a company to establish reserves using a principle-based valuation that meets the conditions for policies or contracts provided by the valuation manual and sets out the minimum criteria for a principle-based valuation.

Requires a company using a principle-based valuation for one or more of those policies or contracts to:

- establish procedures for corporate governance and oversight of the actuarial valuation function consistent with procedures specified by the valuation manual;
- provide to the commissioner and the company's board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation; and develop, and
- file with the commissioner on request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

Requires that a company's internal controls with respect to the principle-based valuation be designed to ensure that all material risks inherent in the liabilities and associated assets subject to the valuation are included in the valuation and that valuations are made in accordance with the valuation manual. Requires that the annual certification be based on the controls in place as of the end of the preceding calendar year and provides that a principle-based valuation may include a prescribed formulaic reserve component.
Requires a company to submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

Limits the applicability of established state standard valuation law provisions requiring the annual valuation of reserves for all outstanding life insurance policies and annuity and pure endowment contracts of each life insurance company engaged in business in Texas to policies and contracts issued before the valuation manual's operative date and removes the authority of the Texas Department of Insurance (TDI) to certify the amount of such reserves.

Specifies that the minimum standards for the valuation of policies and contracts issued before the valuation manual's operative date are as provided by the law in effect immediately before that date and exempts such policies and contracts from the bill's provisions regarding the minimum standard for valuation, valuation manual, and principle-based valuation requirements for policies or contracts issued on or after the valuation manual's operative date.

Provides that any document or other information in the possession or control of TDI that is a memorandum in support of the actuarial opinion or other material provided by the company to the commissioner in connection with a memorandum is confidential and privileged and is not subject to disclosure under state public information law, subpoena, discovery, or admissibility as evidence in a private civil action. Prohibits the commissioner or any person who receives such a document or other information while acting under the commissioner's authority from testifying or being compelled to testify in a private civil action concerning the document or other information.

Authorizes the commissioner to share information, including such confidential and privileged documents or information, with:

- another state, federal, or international regulatory agency;
- the NAIC and its affiliates and subsidiaries; and
- state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality of the information.

Authorizes the commissioner to receive such information from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, provided that the commissioner maintains as confidential or privileged any information received with notice or understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the information.

Provides that disclosing information or providing a document to the commissioner, or sharing information as authorized, does not result in a waiver of any applicable privilege or claim of confidentiality that may apply to the document or information.

Establishes that a memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by the bill's provisions regarding actuarial opinions of reserves required before the operative date of the valuation manual or rules adopted under such provisions.
Provides that the supporting memorandum or other material provided by the company to the commissioner may otherwise be released by the commissioner with the written consent of the company, or to the Actuarial Board for Counseling and Discipline or its successor, on receipt of a request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality and privileged status of the memorandum or other material. Sets forth the circumstances under which the memorandum ceases to be confidential and privileged.

Provides that its provisions regarding actuarial opinions of reserves required before the operative date of the valuation manual do not prohibit the commissioner from using the acquired information in the furtherance of a legal or regulatory action relating to the administration of the Insurance Code.

Requires the commissioner to annually value or cause to be valued the reserves for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of each company issued on or after the valuation manual's operative date. Authorizes the commissioner, in lieu of the valuation of the reserves required of a foreign or alien company, to accept a valuation made or caused to be made by the insurance supervisory official of another state if the valuation complies with the provided minimum standards prescribed by state standard valuation law.

Requires a company that has outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in Texas that is subject to TDI regulation to annually submit the appointed actuary's opinion as to whether the reserves and related actuarial items held in support of the policies and contracts are:

- computed appropriately;
- based on assumptions that satisfy contractual provisions;
- consistent with prior reported amounts; and
- in compliance with applicable state laws.

Requires that an actuarial opinion of reserves made after the valuation manual's operative date comply with provisions of the valuation manual, including in regard to any items necessary to its scope. Requires such a company, unless exempted by the valuation manual, to include with the required actuarial opinion an opinion of the same appointed actuary concerning whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual make adequate provision for the company's obligations under the policies and contracts when considered in light of the assets held by the company with respect to the reserves and related actuarial items.

Sets forth the requirements for an actuarial opinion of reserves required after the valuation manual's operative date. Authorizes the commissioner, in the case of an actuarial opinion required to be submitted by a foreign or alien company, to accept the opinion filed by the company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in Texas.

Requires that a supporting memorandum be prepared for each actuarial opinion of reserves made after the valuation manual's operative date and requires the form and substance of a supporting memorandum to comply with the valuation manual. Limits the liability of a person who certifies an actuarial opinion made after the valuation manual's operative date and subjects a company or person who makes such a
certification to disciplinary action for violating state standard valuation law provisions governing actuarial opinions of reserves and supporting memorandum for those opinions.

Defines "confidential information" and establishes that a company's confidential information is confidential by law, privileged, and not subject to state public information law, subpoena, or discovery, or admissibility in evidence in a private civil action provided that the commissioner is authorized to use such confidential information in the furtherance of any legal or regulatory action brought against the company as a part of the commissioner's official duties. Prohibits the commissioner or any person who received confidential information while acting under the commissioner's authority from testifying and from being required to testify in any private civil action concerning any confidential information.

Authorizes the commissioner, in order to assist in the performance of the commissioner's duties, to share the specified confidential information with:

- other state, federal, and international regulatory agencies;
- the NAIC and its affiliates and subsidiaries;
- in certain cases, the Actuarial Board for Counseling and Discipline or its successor upon a request stating that the confidential information is required for the purpose of professional disciplinary proceedings; and
- state, federal, and international law enforcement officials, provided that the recipient agrees and has the legal authority to agree to maintain the confidentiality and privileged status of such information in the same manner and to the same extent as required for the commissioner.

Authorizes the commissioner to receive documents, materials, data, and other information, including otherwise confidential or privileged documents, material, data, and information, from:

- the NAIC and its affiliates and subsidiaries;
- regulatory or law enforcement officials of other foreign or domestic jurisdictions; and
- the Actuarial Board for Counseling and Discipline or its successor.

Requires the commissioner to maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document or other information.

Authorizes the commissioner to enter into agreements governing the sharing and use of information consistent with certain bill provisions relating to confidentiality and establishes that disclosing documents, material, data, or other confidential information to the commissioner, or sharing such confidential information as authorized, does not result in a waiver of any applicable privilege or claim of confidentiality.

Makes a privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under the bill's provisions regarding confidentiality available and enforceable in any proceeding in, and in any court of, the state. Specifies that a reference to a regulatory agency, law enforcement agency, or the NAIC includes an entity's employee, agent, consultant, or contractor, as applicable, with regard to the bill's provisions governing the sharing and use of certain confidential information.

Provides that any of the confidential information specified in relation to a supporting memorandum or principle-based valuation report may be subject to subpoena for the purpose of defending an action seeking damages from an appointed actuary submitting the related memorandum in support of an actuarial
opinion of reserves after the valuation manual's operative date or a principle-based valuation report by reason of an action required by state standard valuation law or rules adopted under state standard valuation law and may be released by the commissioner with the written consent of the company. Sets forth the circumstances under which any portion of a memorandum in support of an actuarial opinion or a principle-based valuation report ceases to be confidential and privileged.

Authorizes the commissioner to exempt specific product forms or product lines of a domestic company licensed and doing business only in Texas from the bill's requirements regarding policies issued on or after the valuation manual's operative date if the commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing and if the company computes reserves using assumptions and methods used before the valuation manual's operative date in addition to any requirements established by the commissioner and adopted by rule.

Requires the valuation manual, with regard to a life insurance policy in which any ordinary mortality table adopted by the NAIC after 1980 that is approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or the Commissioners 1980 Extended Term Insurance Table issued on or after the valuation manual's operative date, to provide the commissioner's standard ordinary mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the aforementioned 1980 tables. Provides that, if the commissioner by rule adopts a commissioner's standard ordinary mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, the minimum nonforfeiture standard determined in accordance with that table supersedes the standard provided by the valuation manual.

Requires the valuation manual, with regard to a life insurance policy in which any industrial mortality table adopted by the NAIC after 1980 that is approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table issued on or after the valuation manual's operative date, to include the commissioner's standard industrial mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the aforementioned 1961 tables. Provides that, if the commissioner by rule adopts a commissioner's standard industrial mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, the minimum nonforfeiture standard determined in accordance with that table supersedes the standard provided by the valuation manual.

Provides that the annual nonforfeiture interest rate for a life insurance policy issued in a particular calendar year before the valuation manual's operative date may not be less than four percent. Provides that the annual nonforfeiture interest rate for any life insurance policy issued in a particular calendar year on or after the valuation manual's operative date is provided by the valuation manual.
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